

# 15-0541-cr

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**United States Court of Appeals**  
*for the*  
**Second Circuit**

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UNITED STATES OF AMERICA,

*Appellee,*

— v. —

ALLAN PETERS, AKA Hio,

*Defendant-Appellant.*

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF NEW YORK

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**JOINT APPENDIX**  
**Volume 2 of 3 (Pages JA-301 to JA-600)**

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Hermes - Recross - Sacco

1 Q What, guns?

2 A Yes, hand tools.

3 Q And bring them to Big Guy?

4 A Yes.

5 Q Did you listen to the phone call we just  
6 listened to?

7 A Yes.

8 Q And my client knows nothing about it?

9 A That's what I heard.

10 Q That's what Forget in the conversation was.  
11 So what does BG mean?

12 A Forget told me it meant Big Guy.

13 Q Didn't Forget also tell you that during your  
14 investigation that -- well, withdraw that.

15 Didn't you tell me on cross-examination that  
16 your investigation revealed that he knew nothing about it?

17 A Say that again.

18 Q On my cross-examination, the first question I  
19 asked you was this: Based on your investigation and your  
20 discussions with Forget, isn't it true that Mr. Peters didn't  
21 know anything about this gun pickup?

22 A Yes, based on the knowledge I had.

23 Q But yet Forget is apparently told you that it  
24 means my client did, right, he told you BG means Big Guy?

25 A He did tell me BG means Big Guy.

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1 MR. SACCO: I have no further questions, Judge.

2 MR. GARDNER: No questions, your Honor.

3 THE COURT: You may step down, sir.

4 THE WITNESS: Thank you, your Honor.

5 (Witness excused 1:57 p.m.)

6 THE COURT: Ladies and gentlemen of the jury,  
7 everybody's okay? Take a short break please don't talk about  
8 the case and we'll have you right back out here. Okay. Go  
9 ahead.

10 If you want to get your next witness ready and  
11 available.

12 (Jury excused and recess taken at 1:58 p.m.)

13 THE COURT: Okay.

14 We're going bring the ladies and gentlemen of the  
15 jury in. Bring them in.

16 (Jury present, 2:07 p.m.)

17 THE COURT: Okay. You can be seated. The record  
18 should reflect we have the ladies and gentlemen of the jury  
19 back, defendant, defense counsel and the assistant United  
20 States Attorney.

21 Ladies and gentlemen, I don't want you to be  
22 bashful about asking if you need a break or use anything, go  
23 ahead, and for me there's a selfish reason. If you're  
24 uncomfortable, it's hard to pay attention and we want you to  
25 be able to pay attention. Don't hesitate. Just give us a

Joyce - Direct - Gardner

1 sign, whatever, and we'll give you a break when you need it.

2 Mr. Gardner.

3

4 CORNELIUS JOYCE, called as a witness and  
5 being duly sworn, testifies as follows:

6 MR. GARDNER: May I proceed, your Honor.

7 THE COURT: Go ahead.

8 DIRECT EXAMINATION BY MR. GARDNER:

9 Q Good afternoon, Special Agent Joyce.

10 A Good afternoon.

11 Q Can you state your full name, please.

12 A It's Cornelius Joyce.

13 Q And you go by Neil?

14 A Yes, I do.

15 Q And what is your occupation?

16 A Special agent assigned to the Drug Enforcement  
17 Administration.

18 Q How long have you been a DEA agent?

19 A Since June of 1999.

20 Q And where are you currently assigned?

21 A I'm assigned to the Albany District office.

22 Q Where also have you been assigned?

23 A I was also assigned to the Syracuse resident  
24 office.

25 Q Do you have any -- prior to becoming a DEA

Joyce - Direct - Gardner

1 special agent, do you have any additional law enforcement  
2 experience?

3 A Yes, I do. Prior to that I was a police  
4 officer for the city of Manchester, state of New Hampshire.

5 Q As a DEA special agent, have you received any  
6 training involving informants or surveillance?

7 A Yes, I have. I've completed the DEA academy  
8 in Quantico, Virginia and on top of that, I received  
9 additional training throughout the years on the handling of  
10 confidential informants, conducting electronic surveillance,  
11 methamphetamine investigations, clandestine laboratories,  
12 complex conspiracies, et cetera.

13 Q I want to direct your attention to  
14 February 24th, 2011. On that day did you receive a request  
15 for assistance from Special Agent Andrew Hermes?

16 A Yes, I did.

17 Q And just generally speaking, what was the fate  
18 of the request?

19 A I was tasked by my supervisor to assist the  
20 Plattsburgh resident office with a pickup at a legal motel in  
21 the Syracuse area.

22 Q What was the thing that you were going to  
23 pickup?

24 A I believe it was to be a bag of guns.

25 Q Where were you assigned at the time?



Joyce - Direct - Gardner

1           A     I was assigned here in Syracuse.

2           Q     Based on your conversations with Special Agent  
3 Hermes did you develop an operational plan?

4           A     Yes, we did. What we decided to do was to use  
5 a confidential source, someone that we had used before in the  
6 past that was reliable, we decided to use that person to send  
7 him to the particular location, the hotel, to meet with an  
8 individual, exchange a code phrase and pick up that bag of  
9 guns.

10          Q     Had you received an exact location and that  
11 code phrase from Special Agent Hermes?

12          A     Yes, I did.

13          Q     Do you recall what the location was?

14          A     It was the Clarion Inn and Suites on Farrell  
15 Road in Syracuse. It was room 249.

16          Q     And what was the phrase?

17          A     The code phrase was, hi, Buffey.

18          Q     Did you attempt to conduct the gun pickup on  
19 February 24th, 2011?

20          A     Yes, we did. That evening we used that  
21 confidential source. We met with him in our office here in  
22 Syracuse. As standard procedure we search that informant and  
23 his vehicle prior to sending him to the location. He was  
24 provided with instruction as to how he was supposed to  
25 perform and what his duties were. We then surveilled him

Joyce - Direct - Gardner

1 over to that location. We conducted surveillance on the  
2 hotel and we sent him into the hotel to try and make contact  
3 with the occupant in the room 249.

4 Q Did you provide the confidential source with a  
5 transmitting device?

6 A Yes, we did.

7 Q And what transmitting device did you use?

8 A We use a particular device that allows the  
9 conversation to be transmitted realtime back to a receiving  
10 box, which we kept in my vehicle, which allows us to hear the  
11 conversation that takes place between the confidential source  
12 and anyone he encounters.

13 Q And how was the range on that transmitter?

14 A That particular device is kind of a  
15 short-range distance device. Its success is determined based  
16 upon whether it's an open parking lot or a building with many  
17 walls and doors.

18 Q And did you -- where did you meet with the CS  
19 prior to attempting the pickup?

20 A He met us at our office here in Syracuse.

21 Q I guess I should have rephrased that. Did you  
22 meet somewhere else after that?

23 A Yes, we did. That evening we sent him to the  
24 hotel, we followed him to the hotel. We watched as he went  
25 into the hotel and tried to make contact with the occupant of

Joyce - Direct - Gardner

1 that room. He was unsuccessful. He returned to his vehicle.  
2 He contacted me via cell phone and we spoke and we decided to  
3 give it a few minutes and try it again.

4 Q So, according to the CS, nobody answered the  
5 door?

6 A Nobody answered the door. We didn't hear him  
7 having a conversation with anyone while we are monitoring the  
8 device.

9 Q And you were able to listen to his  
10 conversations through the transmitter?

11 A Yes.

12 Q And did you hear anything inconsistent with  
13 that?

14 A No, we did not.

15 Q Did you attempt again to go to that room later  
16 that night?

17 A Yes, we did. We sent him back in with the  
18 same instructions, same direction. We figured just give him  
19 a little bit of time to see if the person maybe come back to  
20 the room. It was after 11:00, he went back to the room there  
21 was still not answer, still no contact at the door. So we  
22 sent him to the lobby where he then used the hotel host  
23 phone, attempted to ring the room and there was no answer  
24 when he tried to call the room, either. So at that point we  
25 decided to cancel the operation for the evening.

Joyce - Direct - Gardner

1                   Q     Did you contact Special Agent Hermes to inform  
2 him about what had happened?

3                   A     Yes, I did.

4                   Q     Did you attempt the same operation the next  
5 day on February 25th, 2011?

6                   A     Yes, we did.

7                   Q     Did you go through the same procedures with  
8 the confidential source?

9                   A     That's correct.

10                  Q     Conducted a search, gave him a transmitter,  
11 all of those things?

12                  A     Correct.

13                  Q     What happened when you went to the hotel with  
14 the confidential source?

15                  A     That afternoon we brought the confidential  
16 source to the hotel. We dropped him off at the hotel,  
17 watched him walk in the hotel. We could hear the  
18 transmitter. We heard him walk a ways into the building. We  
19 heard him knock on a door. That door was answered. He met  
20 with someone. That person provided him with -- with what we  
21 believe to be the bag of guns. We then heard the informant  
22 walk out of the building. He met with us out front, got in  
23 our vehicle and we met basically across the street to see  
24 what had transpired.

25                  Q     Let me back you up just for a second. Could

Joyce - Direct - Gardner

1 you hear if the confidential source used the hi buffey?

2 A Yeah, we believe he did.

3 Q You said he came right out of the hotel  
4 directly to your vehicle?

5 A Correct.

6 Q And what happened after -- I'm sorry, when he  
7 arrived at your vehicle, did he have anything with him?

8 A Yes, he did. He had a blue duffle bag with  
9 him.

10 Q Did you search the contents of that duffel bag  
11 at that time or later?

12 A We drove across the street to another location  
13 and we thoroughly searched that bag to confirm that it was  
14 guns and to make sure that they were in a safe and unlocked  
15 manner.

16 Q Did you also search the confidential source to  
17 make sure he didn't have any contraband on him?

18 A Yes, that's correct, we did.

19 Q Can you describe what you found inside that  
20 blue duffel bag?

21 A Sure. Inside of that bag was 16 handguns. As  
22 I recall, there was one Smith & Wesson revolver. It was a  
23 .380 caliber handgun, a .22 caliber handgun. There were nine  
24 9 millimeter handguns, two .40 caliber handguns and two .45  
25 caliber handguns. The makes and models varied. There were

Joyce - Direct - Gardner

1 Smith & Wesson, Springfield Arms, Glock, Taurus (phonetic),  
2 Kel-Tec and there were also assorted magazines for the  
3 handguns, holsters and some cleaning supplies.

4 Q What did you do with the firearms?

5 A We then filled out a basically a DEA receipt,  
6 some paperwork listing the guns and the serial numbers and I  
7 transferred those guns over to an ATF agent for them to be  
8 traced back as to where their origins came from.

9 Q And at some point did you contact Special  
10 Agent Hermes to inform him of what happened?

11 A Yes, I did.

12 MR. GARDNER: Can I have just one moment.

13 No additional questions, your Honor.

14 THE COURT: Any cross?

15 MR. SACCO: No. No questions, your Honor.

16 THE COURT: Thank you, sir, you may step down.

17 THE WITNESS: Thank you.

18 (Witness excused.)

19 MR. GARDNER: Your Honor, at this time the  
20 government would call Detective Constable Jim Sunday.

21 THE COURT: Come on up, sir.

22

23

24 JAMES SUNDAY, called as a witness and  
25 being duly sworn, testifies as follows:

Sunday - Direct - Gardner

1 DIRECT EXAMINATION BY MR. GARDNER:

2 Q Good afternoon, Detective Sunday?

3 A Good afternoon.

4 Q Can you please state your full name?

5 A James Sunday.

6 Q What's your current occupation?

7 A Detective constable with the Akwasasne Mohawk  
8 Police Service.

9 Q Is that AMPS for short?

10 A Yes.

11 Q How long have you been with AMPS?

12 A Twenty-three years.

13 Q And other than being a detective constable  
14 what else have you done for AMPS?

15 A I was on general uniform patrol prior to that.

16 Q As an investigator with AMPS, do you work with  
17 any joint teams?

18 A Yes, I do. We work with the RCMP, the Ontario  
19 Provincial Police, the Quebec, New York State Police, border  
20 patrol, ISE, et cetera.

21 Q And what type of crimes do you investigate as  
22 a detective constable?

23 A Our unit mostly focuses on across border  
24 crimes such as smuggling of drugs, aliens and firearms.

25 Q And just to be clear, AMPS is a Canadian law

Sunday - Direct - Gardner

1 enforcement agency; is that correct?

2 A That's right.

3 Q Detective Sunday, I'm showing you Government  
4 Exhibit 2. Do you recognize this map?

5 A Yes, I do.

6 Q Using this map, can you describe to the jury  
7 what your jurisdiction is as an AMPS detective?

8 A Our jurisdiction is the Ontario portion of  
9 Cornwall Island. The Quebec portion of Saint Regis and Snye,  
10 as well as the waterways of the St. Lawrence and islands  
11 therein.

12 Q Sorry to interrupt you. There's a pen right  
13 next to your monitor right there. Do you see that?

14 A Yes.

15 Q Can you use that pen and, if you don't mind,  
16 can you go ahead and outline the area that is your area of  
17 operation?

18 A Okay. (Witness complies.)

19 Q And Detective Sunday, you mentioned, I think  
20 three different locations that you covered, is it Cornwall  
21 Island, Saint Regis and Snye?

22 A That's right.

23 Q Can you indicate those three different areas  
24 on this map?

25 A Okay, Cornwall Island is to the left center



Sunday - Direct - Gardner

1 map within the St. Lawrence River.

2 Q Go ahead and use that pen if you don't, mind?

3 A Okay. That area is Cornwall Island. This  
4 area is Saint Regis Quebec. This area is the Snye area.

5 Q Detective Sunday, can you take a look at  
6 Government Exhibit 3 and tell me if you recognize that area.

7 A Yes, I do.

8 Q Can you describe for the jury what we're  
9 looking at in Government Exhibit 3?

10 A This area is the Snye portion, Snye Quebec  
11 portion of Akwasasne.

12 Q And is the line running through the middle of  
13 the map there the international border?

14 A Yes, it is.

15 Q And do you see up in the upper right-hand  
16 corner there's a white box with an inset pointing to it?

17 A Yes, I do.

18 Q Do you recognize that area?

19 A Yes, this is the area known as Sugarbush  
20 located in the Snye area.

21 Q And, generally, how are you familiar with the  
22 Snye area?

23 A I grew up in Snye so I know the area real  
24 well.

25 MR. GARDNER: Can you go to 4.

Sunday - Direct - Gardner

1 Q And do you recognize the area depicted on  
2 Government Exhibit 4?

3 A Yes, I do. This is also the Sugarbush area,  
4 which is the very end of River Road, Snye.

5 Q You see the area that's outlined in the black  
6 box?

7 A Yes.

8 Q Do you recognize that area, that residence?

9 A Yes, I do. That is the Marie Peters  
10 residence.

11 Q And how do you know that's Marie Peters  
12 residence?

13 A Oh, like I've said, I'm from Snye and I know  
14 basically where everybody lives.

15 Q Do you know Marie Peters?

16 A Yes, I do.

17 Q Have you physically been on this property?

18 A Yes, I have.

19 MR. GARDNER: Detective -- or, your Honor, I'm  
20 showing Detective Sunday what's been marked as Government  
21 Exhibit 5 for identification.

22 Q Sir, do you recognize that exhibit?

23 A Yes, sir, I do.

24 Q And what is it?

25 A It is a DVD of an aerial footage of the area

Sunday - Direct - Gardner

1 we just saw, Sugarbush area.

2 Q And are you familiar with -- have you looked  
3 at the video?

4 A Yes, I have.

5 Q And are you familiar with that area?

6 A Yes, I am.

7 Q Does the video accurately depict the area?

8 A Yes, it does.

9 MR. GARDNER: Your Honor, the government would like  
10 to offer this into evidence as Government Exhibit 5.

11 THE COURT: Any objection?

12 MR. SACCO: No objection, your Honor.

13 THE COURT: It will be received.

14 MR. GARDNER: Can you go ahead and play the clips.  
15 (Video played.)

16 Q Can you describe for the jury what we're  
17 looking at in Government Exhibit 5?

18 A Again, this is an aerial video of the Marie  
19 Peters residence on --

20 Q Can you pause it right there?

21 I'm sorry, please continue.

22 A That is an aerial shot of the Marie Peters  
23 residence in Sugarbush Snye.

24 Q Okay. Are you familiar with the waterway that  
25 we can see in the video right there?

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Sunday - Direct - Gardner

1 A Yes.

2 Q What is it?

3 A That is the Snye channel of the St. Lawrence  
4 River.

5 Q Does that connect directly to the St. Lawrence  
6 River?

7 A Yes, it does.

8 Q And what are we looking at now?

9 A This is a shot of the -- of a creek that comes  
10 into the area just west of the Peters' house.

11 Q Can you go ahead and use that pen again and  
12 show the jury where you're talking about.

13 A (Witness complies.)

14 Q And how about the road that is running through  
15 the middle of the video there?

16 A This road comes east/west to the deadend part,  
17 which ends up at the Marie Peters residence.

18 Q Okay. Go ahead and pause it real quick.

19 Is this again that creek that you were just  
20 talking about?

21 A Yes, it is.

22 (Video played.)

23 Q Is that River Road?

24 A Yes.

25 (Video played.)

Sunday - Direct - Gardner

1 Q Are we moving west on River Road here?

2 A Yes.

3 Q And go ahead can you pause it right there.

4 You see the residence in the upper left-hand  
5 corner of the video?

6 A Yes, I do.

7 Q Is that the closest residence to the Peters'  
8 property on this road, River Road, or are you aware of any  
9 closer residence?

10 A Well, there's two of them there. I don't know  
11 if you can see the other log cabin in the middle there.

12 Q Can you go ahead and point that out.

13 A (Witness complies.)

14 Q Is that residence the closest residence to the  
15 Marie Peters residence on River Road?

16 A Yes, it is.

17 (Video played.)

18 MR. GARDNER: Go ahead and pause it real quick.

19 Q What is this area we're looking at here on the  
20 bottom of the video?

21 A The brownish area is marsh, marshland within  
22 the St. Lawrence River area.

23 Q Right there at the bottom right in the middle  
24 it looks like there's a road or a trail. Do you know what  
25 that is?

Sunday - Direct - Gardner

1                   A     That looks like a snowmobile track for like in  
2 the winter travel.

3                   Q     During the winter does this area freeze over?

4                   A     Yes, it does.

5                   Q     Does the entire St. Lawrence River freeze  
6 over?

7                   A     Yes, it does.

8                   Q     Enough so that you can drive snowmobiles  
9 across it?

10                  A     That's right.

11                  Q     Larger vehicles, trucks?

12                  A     Certain years, yes, but not every year.

13                  THE COURT:   How about this year what's going on?

14                  THE WITNESS:   This year it's pretty cold, your  
15 Honor.

16                  THE COURT:   Frozen over?

17                  THE WITNESS:   Yes.

18                  THE COURT:   Trucks?

19                  THE WITNESS:   That we know of, a few maybe, yes.

20                  THE COURT:   Okay.

21                  Q     Thank you.   Detective Sunday, do you know the  
22 defendant in this case, Mr. Allan Peters?

23                  A     Yes, I do.

24                  Q     And how are you familiar with him?

25                  A     Well, I more or less know his other brothers

Sunday - Direct - Gardner

1 and I know him just as being one of their brothers.

2 Q Just from growing up in the area?

3 A That's right.

4 Q I want to direct your attention to  
5 February 17th, 2008, were you -- do you recall working that  
6 day?

7 A Yes, I do.

8 Q Did you conduct a surveillance operation on  
9 that date?

10 A Yes, sir.

11 Q And what was the target of your surveillance  
12 operation?

13 A The target in this case was we had  
14 information --

15 Q I don't want to get into that.

16 A Okay.

17 Q But if you can just tell me what the target  
18 was?

19 A The target was the Marie Peters area.

20 Q The residence that we were just looking at?

21 A That's right.

22 MR. GARDNER: Can you put up 3.

23 Q And were you the only one conducting  
24 surveillance or were there other law enforcement officers?

25 A Myself and others on the same team, yes.

Sunday - Direct - Gardner

1           Q     Can you, using Government Exhibit 3, could you  
2 indicate where you set up for surveillance and where your  
3 other members of the surveillance team set up, to the best of  
4 your knowledge?

5           A     In that investigation we were along River Road  
6 where it says -- it's French -- Chemendoux chanel (phonetic),  
7 the writing, that is right along the road of River Road. We  
8 were set up along there.

9           Q     And where were you set up?

10          A     Right around where the N in chanel is.

11          Q     When we were looking at that video earlier,  
12 you indicated earlier there was a log cabin. Was it a log  
13 cabin?

14          A     That's right.

15          Q     A log cabin along River Road and that that was  
16 the last residence before Marie Peters residence --

17          A     Yes.

18          Q     -- is that right?

19          A     Yes.

20          Q     Where were you in relation to that?

21          A     I was probably 200 yards west of that log  
22 cabin.

23          Q     So was that log cabin in your view?

24          A     The -- no it wasn't but the driveway was but  
25 not the actual residence.



Sunday - Direct - Gardner

1           Q     Understood. And if you don't mind, could you  
2 just use your pen there and show the jury exactly where you  
3 were or approximately where you were.

4           A     (witness complies.)

5           Q     Okay. And where are you, was there anybody on  
6 the surveillance team that was further east of you, meaning  
7 closer to the Peters's residence?

8           A     No, there wasn't. I was the farthest one  
9 east.

10          Q     Do you remember the approximate time of day of  
11 the surveillance operation?

12          A     It was early evening between 5 and 7 p.m.

13          Q     And from your location could you see Marie  
14 Peters's residence?

15          A     No, I couldn't.

16          Q     Could you see the creek or canal that we were  
17 looking at on the video?

18          A     No.

19          Q     At any point during your surveillance did you  
20 observe anything relevant?

21          A     We seen -- I seen a vehicle coming from the  
22 area of the Peters's residence.

23          Q     On River Road?

24          A     Yes.

25          Q     Okay.

Sunday - Direct - Gardner

1 A East of my location.

2 Q When did you first see that vehicle?

3 A I saw it, like I said, between the hours of  
4 1700 and -- well, 5 and 7 p.m. on that evening.

5 Q I'm sorry, I didn't phrase that very well.  
6 Where on the road did you first see that vehicle?

7 A Where?

8 Q Yes.

9 A I saw it come around the corner. I'd have to  
10 show you on the thing there. As it rounded the corner on  
11 River Road.

12 Q Okay. Can you put up 4.

13 Would this help you illustrate it better?

14 A Well, from where I was, I could not see the  
15 Peters' residence but I could see traffic that would come  
16 from that area.

17 Q How so?

18 A It is the only road going into that area.

19 Q And at some point did the vehicle pass your  
20 location or come up to your location?

21 A Yes, it did.

22 Q What did you do?

23 A I notified the other members of the team and a  
24 traffic stop was initiated on the vehicle.

25 Q Did you see the traffic stop occur?

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1 A Yes, I did.

2 Q What did you do when the vehicle got up to  
3 your location, did you follow it did you?

4 A Members of our team followed the vehicle along  
5 River Road up to Wade Lafrance Road and a marked police unit  
6 initiated the stop on Wade Lafrance Road.

7 Q Can you use your pen and show where the stop  
8 occurred on Wade Lafrance Road?

9 A (Marking exhibit.)

10 Q Were you present when the stop occurred?

11 A Yes, I was.

12 Q Did you or another member of the surveillance  
13 team identify the driver or occupants of the vehicle?

14 A Other members of our team, yes, they did  
15 identify the driver.

16 Q How many people were in the vehicle?

17 A Just one.

18 Q Did and you other members of the -- of law  
19 enforcement conduct a search of that vehicle?

20 A Yes, we did. We searched the, the bed of the  
21 pickup truck.

22 Q What type -- it was a pickup truck?

23 A It was an extended cab pickup truck, yes.

24 Q And you mentioned it had a tonneau cover on  
25 it?

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1                   A     It had, it had a hard tonneau cover on the  
2 back, yes.

3                   Q     How did you get into that hard tonneau cover?

4                   A     We had to use a screwdriver to open the lock  
5 (indicating).

6                   Q     And what did you, what if anything, did you  
7 see in the bed of the truck?

8                   A     Once we opened the tailgate, we noticed two  
9 large hockey type duffel bags with a heavy odor of marijuana  
10 emitting from them.

11                  Q     What did you do with the bags?

12                  A     We opened the bag to confirm it was packaged  
13 marijuana, green leafy substance that we believed to be  
14 marijuana.

15                  Q     Did you do that right there on site or did you  
16 take the bag somewhere else?

17                  A     Well, we did it right on site to verify what  
18 it was and then we transported it.

19                  Q     Where did you transport it to?

20                  A     To our substation also in Snye.

21                  MR. GARDNER: Your Honor, I'd like to show the  
22 witness what's been marked as Government Exhibit 6A through  
23 6I.

24                  Q     Detective Sunday, if you could go ahead and  
25 take a look at those photos and tell me if you recognize

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1 them.

2           A     Yes, 6A is the vehicle in question. 6B is the  
3 contents of the bed of the vehicle; namely, the two duffel  
4 bags. 6E and F show the interior of the duffel bags which  
5 contained clear packaging of green leafy substance that we  
6 believed to be marijuana. 6F has a cardboard with the  
7 writing on it that we believed to be the markings of the  
8 packagers to say what type of marijuana or the weights or how  
9 they sell it, like how they divvy it up type. 6G is the  
10 contents of the green -- sorry, or the duffel bags all the  
11 clear packaged bundles placed on the table of the marijuana.

12           Q     And do all those pictures accurately depict  
13 the vehicle and the bags that you seized on the night of  
14 February 17th, 2008?

15           A     Yes, they do.

16           MR. GARDNER: Your Honor, the government moves to  
17 enter into evidence 6A through 6I.

18           THE COURT: Any objection?

19           MR. SACCO: No objection, your Honor.

20           THE COURT: They'll be received.

21           Q     Detective, we're looking at Government Exhibit  
22 6A. Can you describe to the jury what we're looking at in  
23 this photograph.

24           A     It is a green GMC Chevy type pickup truck with  
25 a extended cab and a hard tonneau cover covering the back.

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1 Q 6B, what are we looking at here in 6B?

2 A 6B is the same vehicle with the hard tonneau  
3 cover lifted showing the two duffel bags inside.

4 Q And 6C?

5 A Again, the two hockey type duffel bags.

6 Q At any point were these bags weighed?

7 A The bags were counted all the individual bags  
8 that were inside each duffel bags were counted and a few of  
9 them were randomly weighed. That's how we estimated the  
10 total weight.

11 Q You weighed a couple of bags?

12 A And multiplied them by the number of bags.

13 Q And based on that what weight did you get for  
14 the bags?

15 A For that particular seizure I think it was  
16 either a hundred or 120 pounds.

17 Q 6D. Is this another photograph of the bags?

18 A Yes, it is, with our Mohawk police placard on  
19 it showing, yes.

20 Q And what are we looking at in 6E?

21 A This shows the zipper area of one of the  
22 duffel bags that is covered with a silicone type substance  
23 over the zipper area.

24 Q Did that silicone act like a glue to seal it  
25 shut?

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1           A     Well, in the past we have come across this  
2 situation and basically what it is it's like sealed shut so  
3 the people that actually transport it don't go into the bag  
4 and take some out or it's also to conceal the scent of the  
5 marijuana.

6           Q     You said when you initially looked in the --  
7 in the bed of the truck, you noticed a heavy smell of  
8 marijuana; is that correct?

9           A     Yes.

10          Q     In your experience as a detective have you  
11 come across a lot of marijuana?

12          A     Yes.

13          Q     Are you pretty familiar with the smell of  
14 marijuana?

15          A     Yes, I am.

16          Q     What are we looking at in 6F?

17          A     This is one of the open duffel bags, as I  
18 mentioned before, has this piece of cardboard with the  
19 writing on it to indicate how they calculate and package the  
20 marijuana.

21          Q     And this placard that we're looking at here,  
22 that's not something that you or any other law enforcement  
23 officer created, correct?

24          A     No, it isn't.

25          Q     This is how you found it?

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1 A Yes.

2 Q Inside the bag?

3 A That's right.

4 Q How about 6G. And what are we looking at in  
5 6G?

6 A This is a photo of the marijuana removed from  
7 the duffel bags after it had been counted by us.

8 Q Is this the other duffel bag?

9 A Yes, it is.

10 Q Is this the placard found in the second duffel  
11 bag?

12 A Yes.

13 Q Do you know what SP, hog, JH PH, do you know  
14 what those things mean?

15 A Well, based on previous experience, it's  
16 different types of marijuana.

17 Q And how about this last photo?

18 A This is the total of both bags all placed in  
19 one area and photographed.

20 Q Detective Sunday, I'd like to direct your  
21 attention to March 1st of 2011. Did you conduct another  
22 surveillance operation on that date?

23 A Yes, sir, I did.

24 Q And again, who participated in that  
25 surveillance?



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1           A     Other members of our joint investigation team  
2 of the Mohawk police.

3           Q     And what was the target of that surveillance  
4 operation?

5           A     The target of this operation, again, was the  
6 Marie Peters area in Sugarbush Snye.

7           Q     And can you describe, using Government Exhibit  
8 3, where you were located for that surveillance operation?

9           A     Basically I was in the same area as I was in  
10 the previous -- previously shown slide where I mentioned I  
11 was at. If you want, I can mark it.

12          Q     No, that's okay. Approximately what time did  
13 you conduct this surveillance operation?

14          A     This operation was between 6 p.m. and 8 p.m.

15          Q     Was it dark yet?

16          A     Yes, it was.

17          Q     And, again, was there anybody further east of  
18 you on River Road or were you the last man between you and  
19 the Peters' residence?

20          A     I was the last member farthest east.

21          Q     At any point during your surveillance did you  
22 observe a vehicle come from Marie Peters's residence area?

23          A     Yes, I did.

24          Q     Can you tell the jury what you saw?

25          A     As I was set up in my position on River Road,

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1 I observed headlights approaching from the east, namely the  
2 Marie Peters area, coming towards my direction. So I pulled  
3 out before it reached me and it was behind me and I relayed  
4 the information to the other team members that a vehicle was  
5 going to be proceeding past their locations.

6 Q Why did you pull out in front of the vehicle?

7 A I pulled out so I wouldn't spook the vehicle  
8 or look too suspicious.

9 Q And with the vehicle behind you, could you see  
10 what the vehicle was doing?

11 A Well, I saw the headlights. It was following  
12 me, yes.

13 Q Okay. And can you describe what the vehicle  
14 did?

15 A The vehicle continued westward on to -- on  
16 River Road and then it proceeded again to Wade Lafrance where  
17 the previous stop was and it continued on to McDonald Road  
18 which leads up to Cook Road which is on the U.S. side of  
19 Akwasasne, the New York side.

20 Q Would you mind using that pen and just  
21 outlining that route.

22 A Okay. (Witness marking exhibit.)

23 Q What happened or what did you do once the  
24 vehicle crossed the international border?

25 A After I relayed to the other team members, one

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1 of the other members had gotten the plate number of that  
2 vehicle as it passed his location and we did query checks on  
3 the plate and it was determined to be not from our area, so  
4 we had hoped to initiate a stop while still on our side but  
5 we didn't have the manpower to do it, so when it entered the  
6 U.S. side, we relayed the information to the Saint Regis  
7 Mohawk Tribal Police to have them initiate a stop.

8 Q Did you continue to conduct your surveillance  
9 of the vehicle?

10 A Yes, we followed the vehicle on to Cook Road  
11 and it went westward towards state Route 37.

12 Q At some point did you come into contact with  
13 tribal vehicles, tribal law enforcement?

14 A Yes, we did, tribal police passed us on Cook  
15 Road. The information that we gave them I don't know if it  
16 was clear enough but they didn't see the vehicle go by so  
17 they passed us so we kept following that vehicle on to when  
18 it got to state 37 and it went in the east direction.

19 Q State Route 37?

20 A Yes.

21 Q Were you still following the vehicle when it  
22 got to Route 37?

23 A Once it got to Route 37, we didn't follow it  
24 any farther.

25 Q What type of vehicle was it that you were

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1 following from Marie Peters's residence?

2 A It was a small sedan, beige, gold-colored, a  
3 Dodge or Chrysler type vehicle.

4 MR. GARDNER: Your Honor, I'm showing the witness  
5 what's been marked as Government Exhibit 11A.

6 Q Sir, do you recognize that exhibit?

7 A Yes, sir.

8 Q And what is it?

9 A That is the vehicle that in question, it is a  
10 Dodge Stratus.

11 Q Is that the vehicle that you were following  
12 the night of March 1st 2011?

13 A Yes, it is.

14 Q And is the license plate on that vehicle  
15 visible on that photograph?

16 A Yes, it is.

17 Q Is it the same license plate that you saw that  
18 evening?

19 A Yes.

20 Q Does that photograph accurately depict that  
21 vehicle?

22 A Yes, it does.

23 MR. GARDNER: Your Honor, I'd like to offer this  
24 into evidence as Government Exhibit 11A.

25 THE COURT: Any objection?

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1 MR. SACCO: No objection, your Honor.

2 THE COURT: It will be received.

3 Q So you said you discontinued your surveillance  
4 once it reached Route 37?

5 A Yes.

6 Q Were there any other law enforcement in the  
7 area at that time?

8 A Well, the tribal police, as well as the U.S.  
9 border patrol.

10 Q Had they picked up surveillance at that point?

11 A Yes, they did.

12 Q Are you aware of whether or not that vehicle  
13 was ultimately stopped by another law enforcement agency?

14 A Yes, the border patrol stopped that vehicle  
15 approximately 2, 3 miles east of when it left Cook Road --

16 Q And how do you know that?

17 A -- on State 37. Because we -- after that, we  
18 went by to see if they had stopped the vehicle to verify it  
19 was, in fact, the same vehicle.

20 Q And did you do that?

21 A Yes.

22 Q And was it the same vehicle?

23 A Yes, it was.

24 Q Detective Sunday, you indicated that you've  
25 lived in Snye, Quebec, Canada all your life; is that correct?

Sunday - Cross - Sacco

1 A Yes.

2 Q And you're very familiar with the area?

3 A Yes, I am.

4 Q Now, on the reservation, are there any  
5 ports-of-entry?

6 A No, there isn't.

7 Q And when you travel across a road like Cook  
8 Road, do you have to go through any type of inspection area  
9 or port?

10 A No, you don't.

11 Q Is there any designated law enforcement  
12 personnel that mans the roads that cross the international  
13 border on the reservation?

14 A No, there isn't.

15 MR. GARDNER: Your Honor if I could just have one  
16 moment.

17 No further questions, your Honor.

18 THE COURT: Cross?

19 MR. SACCO: Yes, your Honor briefly.

20 CROSS-EXAMINATION BY MR. SACCO:

21 Q Good afternoon, sir.

22 A Good afternoon.

23 Q Now, you made a seizure, one you testified to,  
24 who was driving that car, that first seizure you testified  
25 to?

Sunday - Cross - Sacco

1 A The 2008 seizure?

2 Q Yes.

3 A That was Richard Cossifer (phonetic).

4 Q Richard Cossifer. Was there any -- were there  
5 any passengers in the vehicle or?

6 A No, there wasn't.

7 Q So Mr. Peters wasn't driving that car, was he?

8 A No, he wasn't.

9 Q Now the second observation you made that's  
10 when you followed the car all the way from the down Cook Road  
11 out to 37 east?

12 A Yes.

13 Q Did you see who was driving that car?

14 A It was a female operator.

15 Q Were there any passengers in that car?

16 A No, there wasn't.

17 Q And did you see Mr. Peters anywhere near that  
18 car that night?

19 A No, I didn't.

20 Q Now, when you set up, you testified to two  
21 different operations out near Marie Peters's house?

22 A Yes.

23 Q Aside from, you know, you described in detail  
24 where you were positioned and your other officers were  
25 positioned. Did you see how the marijuana came in to the,

Sunday - Cross - Sacco

1 came into the Peters's area, where did it come from?

2 A No, we didn't, but --

3 Q So you didn't see it that night?

4 A I did not see it come.

5 Q So did you see it loaded into the car,  
6 anything like that?

7 A No, I didn't.

8 Q With respect to Marie Peters, does she still  
9 live in that house as far as you know?

10 A As far as I know, yes.

11 MR. SACCO: Judge, no further questions.

12 THE COURT: Okay: Mr. Gardner, anything further?

13 MR. GARDNER: No, your Honor.

14 THE COURT: You may step down, sir, thank you.

15 THE WITNESS: Thank you, sir.

16 (Witness excused, 2:50 p.m.)

17 MR. GARDNER: Your Honor, I believe we have our  
18 next witness.

19 THE COURT: Ladies and gentlemen, everybody okay?  
20 (Jurors nodding yes.)

21 MR. GARDNER: Your Honor, can I just have one  
22 moment.

23 THE COURT: You may.

24 MR. GARDNER: Thank you, sir.

25 (Pause in proceedings.)



LaBaff - Direct - Gardner

1 MR. GARDNER: Your Honor, the United States calls  
2 border patrol agent Ben LaBaff.

3

4 BENJAMIN LABAFF, called as a witness and  
5 being duly sworn, testifies as follows:

6 DIRECT EXAMINATION BY MR. GARDNER:

7 Q Good afternoon, Agent LaBaff.

8 A Good afternoon.

9 Q Could you please state your full name.

10 A My name is Benjamin Wayne LaBaff.

11 Q What is your current occupation?

12 A I'm a United States border patrol agent  
13 stationed in Massena, New York.

14 Q How long have you been a border patrol agent?

15 A Just over five years.

16 Q Have you been stationed in Massena the whole  
17 time?

18 A No, I've been stationed at several stations  
19 down south in Fort Brown, Texas and Kingsville, Texas.

20 Q Can you describe just briefly what your  
21 day-to-day duties are like as a border patrol agent?

22 A As A border patrol agent, my job is to patrol  
23 in between designated ports-of-entry and enforce immigration  
24 and nationality laws.

25 Q Agent LaBaff, go ahead and take a look at

LaBaff - Direct - Gardner

1 Government Exhibit 2 on your monitor. What is your area of  
2 operation?

3 A My area are area of operation is from  
4 Waddington, New York to Fort Covington, New York, and this  
5 area on the exhibit is specifically the Akwasasne Mohawk  
6 reservation, which is within that area.

7 Q So your area of operation was actually a  
8 little --

9 A Yes.

10 Q -- broader than what's depicted here?

11 A Yes.

12 Q Generally speaking, what is the job of border  
13 patrol agents along the border?

14 A The main focus is to prevent terrorism but,  
15 also, the big part of what our job is is immigration laws and  
16 keeping illegal immigrants out of the U.S. but we're also  
17 cross designated to enforce narcotics laws and seize  
18 narcotics, if we encounter them crossing the border.

19 Q Where do you do most of your enforcement  
20 activities?

21 A Between the designated ports of entries.

22 Q Go ahead and if you could take a look at  
23 Government Exhibit 1 at the top there. And you see there's a  
24 number of I guess little crosses, little designators there  
25 with a name next to, do you see those?

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1 A Yes.

2 Q Fort Covington, Trout River, Jamieson Line?

3 A Yes.

4 Q Do you know what those represent?

5 A Those appear to represent the designated  
6 port-of-entries.

7 Q Along the border?

8 A Yes.

9 Q And is that the designated area where if you  
10 want to come into or out of the United States, that's where  
11 you go?

12 A Yes.

13 Q And is it fair to say that you spent most of  
14 your time patrolling in between those ports of entry?

15 A That's exactly what our mission is day to day  
16 mission.

17 Q Is most of that done through people like you  
18 on the ground, driving around and near the border?

19 A Yes.

20 Q Do you also conduct surveillance operations  
21 where you get out in the field outside of your car and --

22 A Yes, we do foot patrol, Marine patrol, road  
23 patrol, we do everything to enforce the laws on the border.

24 Q And in between the ports of entry, do you use  
25 any type of electronic equipment or anything like that to

LaBaff - Direct - Gardner

1 help with your patrolling?

2 A In certain stations there's seismic sensors  
3 and cameras.

4 Q And what's the point of those?

5 A For when an agent can't be there on foot, it  
6 allows us to have more coverage.

7 Q I want to direct your attention to March 1st,  
8 2011, were you working that day?

9 A Yes, I was.

10 Q And what were your -- were you patrolling in a  
11 particular area, were you located in a particular area?

12 A Yes, I was assigned the east side of the  
13 Akwasasne Mohawk reservation that day on road patrol.

14 Q Can you show the jury on Government Exhibit 2  
15 where you were set up?

16 A I was set up just south of 37 on State Route  
17 95 so approximately in this area, marking exhibit.

18 Q Just south of Route 37?

19 A Yes.

20 Q At some point that day, did you receive  
21 information that law enforcement officers were looking for a  
22 Dodge Stratus?

23 A Yes, I did. In my patrol vehicle we have our  
24 own system through, through border patrol to communicate but,  
25 also, if we work the reservation we carry a radio of the

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1 tribal police department the Saint Regis Mohawk Tribal Police  
2 department and on that day I first overheard a call for a  
3 look out for a gold Dodge Stratus that was possibly coming  
4 out of Snyc, Quebec entering the U.S. And, as I heard this,  
5 I also then was contacted by our communications, which are  
6 our dispatchers, for the same lookout for us to be the look  
7 out for that vehicle.

8 Q And did they give a location as to where this  
9 vehicle might be?

10 A Yes, they said it was in Snyc, Quebec about to  
11 enter the U.S. through the reservation.

12 Q Did you respond to that area?

13 A Yes, I did.

14 Q Where did you respond to exactly?

15 A I was south on 95 and I knew I wanted to get  
16 closer to the area, so I moved north on 95 on to 37 and  
17 parked at -- set up to watch the highway, state Route 37 in  
18 the Speedway gas station.

19 Q At some point did you see a Dodge Stratus?

20 A Yes, I did.

21 Q And what was the Dodge Stratus doing?

22 A The Dodge Stratus passed my location on state  
23 Route 37.

24 Q What did you do?

25 A I pulled out behind the vehicle.

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1 Q Did you conduct surveillance?

2 A I conducted a vehicle stop and immigrations  
3 stop on the vehicle because it -- through surveillance it had  
4 just entered the United States via Snye, Quebec.

5 Q Where did you conduct that stop?

6 A On State Route 37 just east of 95.

7 Q Were you able to identify the driver of that  
8 vehicle?

9 A Yes, through questioning the driver of that  
10 vehicle was a Cheryl Lobdell.

11 Q Was Ms. Lobdell the only individual in that  
12 vehicle?

13 A Yes, she was.

14 Q Did you -- during this stop, did you conduct a  
15 search of the vehicle?

16 A Yes, I did.

17 Q And what, if anything, did you discover during  
18 your stop?

19 A Since Ms. Lobdell was coming from Canada, her  
20 vehicle was entitled to inspection because she didn't cross  
21 through a designated port of entry and through the search and  
22 through the questioning she admitted there was marijuana in  
23 the trunk of the vehicle and so we searched the vehicle and  
24 located bags of marijuana in the trunk.

25 Q How many bags did you discover in the trunk?

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1 A I believe it was two.

2 Q What type of bags were there?

3 A Two large duffel bags or hockey bags that were  
4 black that, through prior apprehensions and seizures, that I  
5 recognized to be used in smuggling marijuana or narcotics.

6 Q Did you open up the bags right there on the  
7 side of the road?

8 A No, I didn't.

9 Q What did you do with the bags?

10 A For officer safety, we decided to transport  
11 the vehicle, Ms. Lobdell and the narcotics back to the  
12 Massena border patrol station.

13 Q Did you follow the Dodge Stratus back to the  
14 station?

15 A Yes, I did.

16 Q And what did you do with the Dodge Stratus  
17 once it was back at the Massena border patrol station?

18 A Once the Dodge Stratus was back at the  
19 station, we secured the driver, Ms. Lobdell and we also did  
20 an inventory of the car and removed the bags from the trunk.

21 Q Did you or another officer take photographs  
22 the bags in the vehicle and the bags that you recovered?

23 A Yes. I don't recall who took the photographs  
24 but there were photographs taken.

25 MR. GARDNER: Your Honor, I would like to show the

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1 witness what's been marked as Government Exhibit 11B to 11E.

2 THE COURT: Okay.

3 Q Agent LaBaff, could you look through each of  
4 those photographs and tell me if you recognize them.

5 A Yes. At least the first one. Yes. These  
6 photographs are of the Dodge Stratus, the marijuana that was  
7 located and taken to our station at the sallyport.

8 Q Do all of those photographs accurately depict  
9 both the Dodge Stratus, as well as the hockey bags that you  
10 removed from the trunk?

11 A Yes.

12 MR. GARDNER: Your Honor, the government would like  
13 to move into evidence Government Exhibits 11B through 11E.

14 THE COURT: Any objection?

15 MR. SACCO: No objection, your Honor.

16 THE COURT: They'll be received.

17 Q First do you recognize Exhibit 11A.

18 A Yes, this is the Dodge Stratus that I  
19 encountered Ms. Lobdell in and pulled over on state Route 37.

20 Q And 11B. This is a dark photograph, can you  
21 describe what we're looking at here?

22 A Yes, I recall the photograph. There's the  
23 trunk's open and you can -- there's a tag on the marijuana  
24 and you can also see the glue on the zipper of the bag  
25 (indicating).



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1 Q 11C. What are we looking at in 11C?

2 A This is just one of the hockey bags has been  
3 removed from the trunk and you can it's a dark picture  
4 there's still one remaining in the trunk.

5 Q And what are we looking at in 11D?

6 A Same things I just described, same thing, I  
7 think the flash is on.

8 Q If you look at the black hockey bag here,  
9 there's something that's running across the middle of it, do  
10 you see that?

11 A Yes, I'd.

12 Q And what is that?

13 A That's what I'm trying to describe. It's  
14 melted glue on the zipper so it's not easily opened.

15 Q Was it hard to get open?

16 A Yes.

17 Q And how about 11E?

18 A This is where a -- the bag was already ripped  
19 and you can see the air sealed bag of marijuana or what  
20 appeared to be marijuana.

21 Q How was the -- this green leafy substance, how  
22 was it packaged inside the bags?

23 A Inside the bags, inside the hockey bags  
24 they're air sealed.

25 Q Like vacuum sealed?

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1 A Vacuum sealed, yes.

2 Q After you recovered these bags from the Dodge  
3 Stratus, did you contact any other law enforcement agencies?

4 A Yes, we contacted the Frank kiln county DEA  
5 task force.

6 Q Did any members of the DEA respond?

7 A Yes.

8 Q Do you remember who it was?

9 A I believe it was Agent Teabo and Agent Toledo.

10 MR. GARDNER: Your Honor, if I could have just one  
11 moment, please.

12 THE COURT: You may.

13 (Discussion held off the record.)

14 MR. GARDNER: Your Honor, I have no further  
15 questions for this witness.

16 THE COURT: Any cross, Mr. Sacco?

17 MR. SACCO: No cross, your Honor.

18 THE COURT: Okay, thank you, sir. You can step  
19 down.

20 THE WITNESS: Thank you, sir.

21 (Witness excused, 3:00 p.m.)

22 MR. GARDNER: Your Honor at this time government  
23 would like to enter into evidence Government Exhibit 33.  
24 It's another stipulation of fact.

25 THE COURT: Any objection?

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1 MR. SACCO: No objection, your Honor.

2 THE COURT: Go ahead. It will be received.

3 MR. GARDNER: Yes, sir, Government Exhibit 33 reads  
4 as follows: The parties stipulate as follows:

5 On March 1st, 2011 Drug Enforcement Administration  
6 Special Agent Hermes took possession of two hockey style bags  
7 from United States border patrol agent Benjamin LaBaff at the  
8 border patrol station in Massena, New York. Special Agent  
9 Hermes then transported the two hockey bags to the DEA  
10 building in Plattsburgh, New York and placed them in the DEA  
11 vault.

12 On March 2nd, 2011, Special Agent Hermes removed  
13 the two hockey bags from the DEA vault and transported the  
14 hockey bags to Hyde Park, New York to effect a controlled  
15 delivery. At the conclusion of the controlled delivery,  
16 Special Agent Hermes regained possession of the two hockey  
17 bags and transported the bags back to the DEA building in  
18 Plattsburgh, New York. Special Agent Hermes secured the bags  
19 and in the DEA drug vault.

20 On March 4th, 2011, Special Agent Hermes removed  
21 the two hockey bags from the DEA drug vault and examined the  
22 contents of the bags, which contained dozens of vacuum sealed  
23 plastic bags containing suspected marijuana. Special Agent  
24 Hermes removed the plastic bags, which weighed 44 kilograms.

25 On the same date, Special Agent Hermes prepared

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1 representative samples of the suspected marijuana from both  
2 of the hockey bags pursuant to DEA policy. Special Agent  
3 Hermes packaged the representative samples and sent them to  
4 the DEA Northeast Regional Laboratory for chemical analysis  
5 via FedEx.

6 On April 28, 2011, forensic chemist Christopher  
7 Benedetto completed a chemical analysis of the representative  
8 samples submitted by Special Agent Hermes and scientifically  
9 concluded that the suspected marijuana was, in fact,  
10 marijuana.

11 In conclusion, Special Agent Hermes took possession  
12 of two hockey style bags from Agent LaBaff at the Massena  
13 border patrol station which contained 44 kilograms of  
14 marijuana, a Schedule I controlled substance.

15 Sorry, your Honor, our next witness is Mr. Alain  
16 Forget and I believe he's available.

17 THE COURT: Why don't you get him in the courtroom,  
18 I'm going to get you up and move, all right. I'm going to  
19 give you a short five-, ten-minute break just to make sure  
20 everybody's up and moving and awake and then we'll get you  
21 right back in here. Okay.

22 (Jury excused, 3:05 p.m.)

23 THE COURT: We're just going to take a short  
24 recess.

25 MR. SACCO: Judge, before we, you know, when you

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1 get a chance, I want to make my record, my application. I  
2 talked to my client about the issue that came up from before  
3 when we had the side bar.

4 THE COURT: With the transcript?

5 MR. SACCO: Yeah.

6 I don't know if you want me to do it now or you  
7 want me to wait?

8 THE COURT: You can go ahead and do it now. The  
9 jury is out of the room. We have your client and yourself  
10 and the government. Go ahead.

11 MR. SACCO: Judge, just so the record's clear,  
12 essentially what happened here is that the government put in  
13 evidence. They put in a CD and a transcript of a controlled  
14 meeting between my client and Alain Forget. I don't know  
15 what exhibits they are. I objected to both exhibits as not  
16 relevant. The Court denied my objection.

17 During when the jury was present, the government  
18 played the audio of the controlled meeting and in that audio  
19 was the following sentence that was redacted from the  
20 transcript that was in evidence but it was still on the audio  
21 portion. I had a previous agreement with the government  
22 attorney that this would not be played to the jury.

23 Here's what the relevant portion of the audio that  
24 was played. "Yeah, cuz I told him, I said, I don't want  
25 nothing to do with guns. I went to jail for that already."

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1           Now, I read this as the really damaging part for my  
2 position and my client's position is that the jury was able  
3 to hear and read on the monitor in front of them "I went to  
4 jail for that already", meaning that he's gone to jail for  
5 some sort of gun possession.

6           THE COURT: But was it on the monitor, was it  
7 actually in --

8           MR. GARDNER: Yes.

9           MR. SACCO: It was in print. That's when I was in  
10 some sort of shock and that's when I stood up and I didn't  
11 really know how to interrupt. I obviously brought that to  
12 the Court's attention. We had a side bar and we had a  
13 discussion that is already on the record.

14           I've relayed that to my client and here is what my  
15 position is as the attorney. There's three options here for  
16 him to consider and for me to guide him. First is to say  
17 nothing and not draw any more attention to the issue that has  
18 already been drawn.

19           The second is for the Court to fashion some sort of  
20 instruction advising them that they can't consider that, if  
21 they saw that, et cetera.

22           The third is a mistrial, for me to make a motion  
23 for a mistrial under Federal Criminal Procedure 26.2.

24           We're at a stage in the case that, you know, I had  
25 to consult with my client on this, obviously it's his life,

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1 it's his case and I'm making a motion for a mistrial.

2           The reason I'm making the motion is I think this  
3 case evolved into a case that there's a lot of talk about  
4 weapons and the guns and the gun seizure and all that and I  
5 think it makes this all the more damaging to him and  
6 prejudicial to him and with all of the discussion and  
7 testimony about guns and gun trafficking, I think it's a very  
8 dangerous situation that he's in with that jury now knowing  
9 that he has a gun conviction. I was given no notice under  
10 404. I know it was inadvertent so that's why I wasn't given  
11 notice but under 404, I'm entitled to notice and I was given  
12 no notice because it was inadvertent. I've said that before.

13           THE COURT: You were certainly aware that there was  
14 this part of the record recording and the transcript existed.

15           MR. SACCO: Absolutely. And I'm not suggesting  
16 that for a minute but under the plain reading of the rule,  
17 we're suppose -- there's supposed to be formal notice.

18           In any event, Judge, I'm making the motion as a  
19 lawyer to protect my client's interest and that's the motion.

20           THE COURT: Mr. Gardner, you want to be heard, sir?

21           MR. GARDNER: Your Honor, the government obviously  
22 would oppose the motion. I think I said to the Court -- I'll  
23 be very frank -- it was an error. The government had  
24 communicated to defense counsel that we would not include  
25 that portion of the audio, so I understand that it's an

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1 issue. But mistrial is obviously a drastic remedy and  
2 there's things that can be done short of that.

3 It was a very short reference. We can remove it so  
4 that the jury does not hear it again. It was not a lengthy  
5 conversation about the conviction. It didn't describe what  
6 the conviction was. And I think the -- short of a mistrial,  
7 there certainly can be instructions that can be given to the  
8 jury, if that's warranted, or maybe the better course of  
9 action is to say nothing. But, again, a mistrial is a very  
10 drastic remedy that I don't think it necessary in this  
11 situation.

12 THE COURT: Well, first of all, I'd like to note  
13 that the Court never received any pretrial motions with  
14 regard to this issue and I'm assuming that's based on the  
15 understanding between counsel that it would be redacted.

16 The Court views this as an innocent mistake in the  
17 very limited type nature of the mentioning., it was mentioned  
18 by the defendant out of his own mouth with regard to his  
19 involvement with a prior gun conviction.

20 Now the thing is what to do about it.

21 I'm going to deny your motion for a mistrial. You  
22 know, it's this Court's view that that is an extreme and  
23 drastic measure that would have to be a situation where  
24 there's extreme prejudice against your client. And the Court  
25 doesn't view this I'm going to call it an error by the



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1 government in putting this before the jury as that type of  
2 prejudicial mistake that would require this Court to grant a  
3 motion for a mistrial.

4 So then we're left with this, and as I've indicated  
5 previously on the record, there are some options here. And I  
6 still see it as three options, from the Court's view.

7 We can say nothing, with the idea that it would  
8 bring attention to it by mentioning it again and it's going  
9 to be redacted any further playing by this jury, any other  
10 further testimony by witnesses and I'm assuming Mr. Forget is  
11 going to testify about this conversation. He's the next  
12 witness to be called. There will be no reference to this.

13 Secondly, I can give a curative instruction now to  
14 the jury indicating and I'm happy to hear defense counsel and  
15 how you would like it worded, if you want this remedy, to  
16 say, you know, that you're not to consider any reference in  
17 the tape or in any other recording or the narrative that was  
18 drafted up from the recording, regarding any reference to any  
19 prior criminal activity or convictions of Mr. Peters. And we  
20 can do that immediately.

21 Or we can let it sit for now and when I instruct  
22 the jury at the end of this case, I can give an overall  
23 instruction at that time indicating that any reference to any  
24 prior criminal convictions and any testimony or any exhibits  
25 with regard to Mr. Peters needs to be disregarded or I can

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1 give it now and then I'll do it twice, if you'd like.

2 But, again, I think those are reasonable,  
3 legitimate options to deal with this issue and I don't see  
4 any -- or that there is significant prejudice to your client  
5 which would require granting a motion for a mistrial.

6 So, again, I will give you an opportunity to  
7 discuss that with your client and we can make a decision. I  
8 can do an instruction when the jury comes back. I can do an  
9 instruction at the end of the day and follow up with another  
10 one at the time of my jury charge. But I'll certainly hear  
11 you on that.

12 MR. SACCO: Yes, your Honor.

13 And, Judge, I appreciate that. If I could have the  
14 overnight, I don't think it's anything I'm going -- I'm  
15 intentionally not asking the Court to do it at this moment.  
16 I know the Court's offered to and I'm not asking you to do it  
17 right now.

18 THE COURT: I would like you, for the record, to  
19 consult with Mr. Peters and I want to know, that that's his  
20 wish, too, that he would prefer not to have an immediate  
21 curative instruction but would prefer to wait till overnight  
22 and you two can discuss it so that we have that on the record  
23 and we'll go from there.

24 MR. SACCO: Okay, thanks, Judge.

25 Judge, I've had -- we've been talking about this at

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1 this break and the last break so we've talked again about the  
2 timing of this instruction, if any, and right now we're  
3 asking the Court not to admonish or give an instruction and  
4 we'll talk about it tonight and I'll update the court in the  
5 morning, if that's all right.

6 THE COURT: That's fine. And I'd be happy to give  
7 an instruction first thing in the morning, if that's what you  
8 want to do, followed by one on a jury charge or however --  
9 whatever you want to request this Court to do, I'll hear you  
10 and I'll hear the government and we'll go forward.

11 But, again, I think at this point, the less we draw  
12 attention to it, the better off it is.

13 MR. SACCO: I agree. And, however, my -- my other  
14 concern is is that whoever may or may not have seen it, it's  
15 my experience that whoever might have written something down  
16 is going to be looking for that again.

17 THE COURT: Mm-mm.

18 MR. SACCO: And that can be an issue.

19 THE COURT: And that's why I do think an  
20 instruction is appropriate at some point, you need to tell me  
21 when you'd like it or.

22 MR. SACCO: Okay.

23 THE COURT: Or else I can -- if you want me to take  
24 it out of your hands, I can do that instruction today. I can  
25 do it at a, you know, at a final charge to this jury, and my

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1 thought is, you know, without bringing attention to it, a  
2 general type of curative instruction indicating that any  
3 reference, anywhere in testimony, or in exhibits, recordings  
4 or anything else to any prior criminal activity of Mr. Peters  
5 or any prior convictions is not relevant and cannot be  
6 considered by this jury in determining guilt or innocence of  
7 this defendant, something along those lines is what I'm  
8 thinking, but I'll hear you on --

9 MR. SACCO: Okay.

10 THE COURT: -- on a requested instruction and I'll  
11 hear the government.

12 MR. SACCO: Yes, your Honor.

13 THE COURT: So you let me know.

14 MR. GARDNER: Your Honor, along those fines, can I  
15 have five to ten minutes so that we can make sure that it's  
16 been edited out.

17 THE COURT: Please do.

18 THE CLERK: Court is in recess.

19 (Recess taken, 3:19 p.m.)

20 (Open court:)

21 THE COURT: Ladies and gentlemen, I'm going to give  
22 you your exercise. I'm going to ask you to step out again a  
23 for a second. I apologize for this but it's important that I  
24 need to cover something with these attorneys on the record.  
25 So, if you'll just step into the jury room, you can stay

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1 lined up and I'm going to bring you right back out, little  
2 practice like a drill Sergeant.

3 (Jury excused, 3:40 p.m.)

4 THE COURT: For the record, I've sent the jury back  
5 to the jury room because I've been advised by counsel that  
6 Mr. Forget is in shackles and he's in custody and he's going  
7 to need to be escorted into the courtroom, so I want to get  
8 him in here in the witness seat. If there's hand shackles, I  
9 want them off, you can leave the leg shackles off, and we'll  
10 move him outside the presence of the jury, okay.

11 Are you comfortable with the hand shackles being  
12 off and have him brought into the courtroom.

13 (Discussion held off the record.)

14 THE COURT: For security purposes let's do that and  
15 you escort him in, okay.

16 (Pause in proceedings.)

17 THE COURT: Let's bring the ladies and gentlemen of  
18 the jury in.

19 (Jury present, 3:42 p.m.)

20 THE COURT: We're here back in the courtroom. We  
21 have the defendant, defense counsel, government attorney, and  
22 Mr. Gardner and Mr. Alain Forget.

23 MR. GARDNER: Alain Forget, your Honor.

24 THE COURT: Has been called lean Forget Lane).

25

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1 ALAIN FORGET, called as a witness and  
2 being duly sworn, testifies as follows:

3 DIRECT EXAMINATION BY MR. GARDNER:

4 Q Good afternoon, Mr. Forget.

5 A How are you.

6 Q Can you please state your full name?

7 A It's Alain D. Forget.

8 Q Did you ever go by another first name?

9 A No.

10 Q Does anyone ever call you E-Lain?

11 A My mother calls me Alain. It's just the  
12 French way.

13 Q Just the French way of saying Allan?

14 A Yeah.

15 Q How old are you?

16 A 43.

17 Q Prior to your incarceration what was the city  
18 and state of your residence?

19 A Malone, New York.

20 Q How long have you lived in Malone?

21 A Ten years.

22 Q Prior to your incarceration, were you  
23 employed?

24 A Yes, sir.

25 Q What was the nature of your employment?

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1           A     I'm owner/operator of dump trucks and tractor  
2 trailers. I haul road construction materials as in gravel,  
3 sand, blacktop, different items like that.

4           Q     What's your educational background?

5           A     Grade ten.

6           Q     Do you have any history of drug or alcohol  
7 abuse?

8           A     Yes.

9           Q     Can you describe it?

10          A     Marijuana and cocaine.

11          Q     Have you used marijuana and cocaine in the  
12 last few years?

13          A     I -- vaguely kind of, I was -- I have.

14          Q     Did you use marijuana and cocaine regularly in  
15 the last few years?

16          A     Not regularly. As much as two, three years  
17 ago I was quite regularly.

18          Q     And what would that be, once a week, once a  
19 day?

20          A     Oh, every day.

21          Q     Cocaine, marijuana, both?

22          A     Mostly marijuana.

23          Q     Mr. Forget, did you plead guilty to an offense  
24 against the United States?

25          A     Yes, sir, I did.

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1 Q And we'll get into the specific details in a  
2 moment but can you generally state what you did.

3 A Transporting marijuana.

4 Q Do you remember what crime you pled guilty to?

5 A Possession to marijuana.

6 Q Was it conspiracy to possess with intent to  
7 distribute and to distribute more than a hundred kilograms of  
8 marijuana?

9 A I believe so.

10 Q Have you been sentenced yet?

11 A No, sir.

12 Q Do you know what the maximum potential term of  
13 your imprisonment is?

14 A I'm not quite sure.

15 Q Is it a mandatory minimum of 5 years and a  
16 maximum of 40 years?

17 A Oh, yes, I believe so.

18 Q Now, Mr. Forget, is it fair to say that you've  
19 had numerous convictions related to smuggling over the years?

20 A For different things than marijuana, yes.

21 Q But is that a fair statement?

22 A I believe so, yes.

23 Q Prior to your plea with the United States --  
24 or prior to your plea of guilty to the conspiracy charge, did  
25 you enter into a plea agreement with the United States?



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1 A I believe so.

2 Q Did you also enter into a cooperation  
3 agreement with the United States?

4 A Yes, sir.

5 Q At the time you entered into the cooperation  
6 agreement, what was your understanding of that agreement?

7 A To cooperate with the law.

8 Q Did you hope to gain some benefit from your  
9 cooperation?

10 A I did hope.

11 Q Mr. Forget, were you arrested on  
12 December 27th, 2013?

13 A Yes, sir.

14 Q At that time were you charged by New York  
15 State with criminal possession of a weapon in the second, two  
16 counts of criminal possession of a weapon in the third  
17 degree, and three counts of criminal sale of firearm in the  
18 third degree?

19 A Was I charged with it?

20 Q Were you charged with it?

21 A Yes, sir.

22 Q When you pled guilty to conspiracy to possess  
23 with intent to distribute a controlled substance, were you  
24 incarcerated at that time or were you released on conditions?

25 A I was released on conditions.

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1           Q     And was one of those conditions that you not  
2 commit another crime?

3           A     Yes, sir.

4           Q     And have you now violated your conditions of  
5 release?

6           A     Unfortunately, yes, sir.

7           Q     And your release status was revoked, correct?

8           A     Yes, sir.

9           MR. GARDNER: Your Honor, I'd like to show the  
10 witness what's been marked as Government Exhibit 28 for  
11 identification.

12           THE COURT: Okay.

13           Q     Sir, go ahead and take a moment and I want you  
14 to look at that document and when you're done looking at it,  
15 let me know.

16           A     (Witness reviewing document.) I'm finished  
17 reading it.

18           Q     Do you recognize that document?

19           A     Yes, sir.

20           Q     And what is your general understanding of that  
21 document?

22           A     That I -- I have no leniency of any some sort  
23 pretty much.

24           Q     Let me ask you a few questions about it. Is  
25 that a letter from the United States Attorney's Office to you

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1 care of your attorney?

2 A Yes, sir.

3 Q And does that letter inform you that your  
4 cooperation agreement has been terminated?

5 A Yes, sir, that I breached.

6 Q Because of your arrest on December 27th, 2013?

7 A Correct.

8 Q Does that letter also indicate that the  
9 government will make no recommendation at the time of your  
10 sentencing, based on your cooperation?

11 A Yes, sir.

12 Q And you understand all of that?

13 A I understand it.

14 MR. GARDNER: Your Honor, I'd like to offer this  
15 exhibit into evidence as Government Exhibit 28.

16 THE COURT: Any objection?

17 MR. SACCO: No, your Honor.

18 THE COURT: It will be received.

19 Q Mr. Forget, what did you do to prepare for  
20 your testimony here today?

21 A (No response.)

22 Q Did you and I meet?

23 A Yes.

24 Q Did we meet on more than one occasion?

25 A Yes.

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1                   Q     And during those meetings did we talk about  
2 your testimony?

3                   A     Yes.

4                   Q     Did you review your -- any prior testimony  
5 that you had relating to this case?

6                   A     (No response.)

7                   Q     Did you review your grand jury testimony?

8                   A     Yes.

9                   Q     Mr. Forget, are you familiar with the  
10 defendant in this case, Mr. Allan Peters?

11                  A     Yes, sir.

12                  Q     Approximately how long have you known the  
13 defendant?

14                  A     I believe I first met him it was -- I want to  
15 say 1991 or '92, I think it was.

16                  Q     So for quite some time?

17                  A     Yes.

18                  Q     And I don't want to get into the specific  
19 nature of your relationship in the '90s but did you know him  
20 socially, were you friends with him, were you acquaintances,  
21 associates? How would you describe your relationship?

22                  A     Acquaintances -- I mean, we weren't always --  
23 we didn't go like hang out together. We might have  
24 snowmobiled together a couple of times. I mean, it was more  
25 on a business level, I guess.

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1 Q Okay.

2 A I knew him from seeing him around our area at  
3 times.

4 Q Did you live in the same general area that he  
5 did?

6 A He lived on the reservation. I lived close to  
7 there on the Canadian side.

8 Q Where were you living in the 1990s?

9 A Saint-Anicet.

10 Q Where is that?

11 A Quebec.

12 Q Is it close to the Akwasasne Mohawk Indian  
13 reservation?

14 A Yes.

15 Q Is it on the north side of the St. Lawrence  
16 river?

17 A Yes.

18 Q How long did you live in Quebec?

19 A Up until 2001 I think it was.

20 Q Was that when you moved to Malone, New York?

21 A I moved to Constable.

22 Q Constable, New York?

23 A Yes.

24 Q Are you a dual citizen of both Canada and the  
25 United States?

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1 A Yes.

2 Q Now you indicated earlier that you had pled  
3 guilty to a drug trafficking offense; is that right?

4 A Yes, sir.

5 Q So at some point did you become involved in  
6 drug trafficking and specifically drug smuggling?

7 A Yes, sir.

8 Q When did that occur, what was the general time  
9 frame?

10 A Somewhere around 2008, I believe.

11 Q Can you describe for the jury how you became  
12 involved in drug trafficking?

13 A Basically started scouting for people, running  
14 out -- scouting is going ahead, kind of being the eyes, the  
15 lookout.

16 Q Let me back you up a little bit.

17 A Okay.

18 Q At some point did someone approach you about  
19 becoming involved in drug smuggling?

20 A Yes, sir.

21 Q And who was that individual?

22 A Colin Stewart and Stefan Trepanier.

23 Q Mr. Forget, if you could go ahead and look at  
24 that monitor there at Government Exhibit 20. Do you  
25 recognize that individual?

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1 A Yes, I do.

2 Q And who is that?

3 A That's Colin Stewart.

4 MR. GARDNER: Your Honor, I'd like to approach  
5 the witness and show him what's been marked as Government  
6 Exhibit 24 for identification.

7 Q Sir, do you recognize that exhibit?

8 A Yes, sir.

9 Q And what is it?

10 A It's Stefan Trepanier.

11 Q Is it a photograph of him?

12 A Yes.

13 Q Does that photograph accurately depict what he  
14 looks like?

15 A Yes.

16 MR. GARDNER: Your Honor, the government would like  
17 to move this into evidence as Government Exhibit 24.

18 MR. SACCO: No objection.

19 THE COURT: Okay. It will be received.

20 Q So you indicated that these two individuals,  
21 Colin Stewart and Stefan Trepanier, approached you. What did  
22 they approach you about?

23 A He pretty much asked me if I wanted to, like,  
24 be their eyes to scout their loads of marijuana.

25 Q How did you know these two individuals?

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1           A     I knew Stefan from living in the area in  
2 Saint-Anicet. Colin, I met him through my son -- my son and  
3 his brother were friends, Colin's younger brother.

4           Q     And who is your son?

5           A     Mathieu Forget.

6           Q     Were you surprised when they approached you  
7 and asked you to work with them?

8           A     Kind of, yes.

9           Q     Did you know that they were involved in drug  
10 trafficking?

11          A     I mean, I knew they were involved in  
12 something. I didn't have the definite factors of it.

13          Q     When they first approached you, did you agree  
14 right away, did you take time to think about it?

15          A     I kind of stuttered on it. They just told me,  
16 you know, there's nothing to it, you know, it's nothing to  
17 worry about. It's not like you have anything on you and I,  
18 I -- I fell in for it.

19          Q     So you agreed?

20          A     Yeah.

21          Q     At some point did you sit down with either  
22 Colin or Stefan Trepanier and discuss the specifics of what  
23 you would be doing?

24          A     Yes.

25          Q     Was that over the phone, was that a meeting?



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1 A In person.

2 Q And where did that take place?

3 A I believe it was at Colin's in Quebec.

4 Q At Colin Stewart's residence?

5 A Yes.

6 Q Where is his residence located?

7 A It's in Elgin.

8 Q In Quebec?

9 A Quebec.

10 Q What did Colin explain to you about what you  
11 would be doing specifically?

12 A Just kind of pretty much told me that I  
13 would -- they would get to the reservation and put the  
14 marijuana into vehicles and I would go out ahead of them  
15 before they left, kind of like to open up the road.

16 Q That's the scouting that you mentioned?

17 A The scouting, opening up the road.

18 Q What is the overall function of a scout?

19 A Your duty is to go ahead, you know, several  
20 miles or somewhat and -- excuse me.

21 Q Do you need a glass of water?

22 A Yeah, please.

23 Q Go ahead.

24 (Pause in proceedings.)

25 A Sorry. Thank you.

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1           Q     That's okay. So you were talking about  
2     scouting?

3           A     Yeah, you go ahead and you basically look out  
4     for suspicious vehicles that might look like law enforcement.  
5     If there's anything that looks in any way, you -- you let  
6     them know by text or with the phone.

7           Q     You would let Colin or Stefan know?

8           A     Yes.

9           Q     Okay.

10          A     If need be, you manage to get pulled over so  
11     that they don't.

12          Q     During this initial meeting with Colin and  
13     Stefan, you mentioned that they said that they would get the  
14     marijuana at some place on the reservation; is that right?

15          A     Yes.

16          Q     Did they indicate where on the reservation?

17          A     Yes.

18          Q     What did they say?

19          A     It was at Hiio's mother's property.

20          Q     Is that the way they described it, Hiio's  
21     mother's property?

22          A     Yes.

23          Q     Who is Hiio?

24          A     Allan Peters.

25          Q     Is that the defendant?

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1 A Yes.

2 Q Is that another name that he goes by?

3 A Yes.

4 Q Do you know if he has any other nicknames or  
5 any other names that he goes by other than Allan and Hiio?

6 A A lot of people call him Big Guy.

7 Q Do you call him Big Guy?

8 A Yes.

9 Q Would Colin or Stefan ever refer to him as Big  
10 Guy?

11 A Yes.

12 Q After that initial meeting, how long was it  
13 before you actually began to scout and work for Colin and  
14 Stefan?

15 A It was pretty quick. I don't remember the  
16 time frame but it was pretty soon after.

17 Q Few weeks?

18 A Within the next week or two, I believe.

19 Q About how many times did you scout with a load  
20 of marijuana?

21 A Quite a few.

22 Q Talking about five or ten, couple of dozen,  
23 what do you think?

24 A I'm sure it was over 20.

25 Q Okay. And was each time that you scouted

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1 pretty similar?

2 A Yes.

3 Q Let's talk about I guess an average for a  
4 typical trip. If Colin and Stefan wanted you to scout, how  
5 would they communicate with you?

6 A They would send me a text message through a  
7 telephone.

8 Q And what would the text message indicate?

9 A Pretty much if we were going to be there  
10 for morning, it was, I believe, like 6 a.m. or so, 6 or  
11 6:30 a.m., they would call it breakfast, we'll meet you for  
12 breakfast. They didn't do lunch very much because nobody had  
13 a very good feeling about lunch.

14 Q Why, because it was in the middle of the day?

15 A Yeah, we like to do it with traffic, working  
16 people, school buses.

17 Q Okay.

18 A Just blend in with the traffic.

19 Q Would you ever scout or would a load ever go  
20 out at night?

21 A Yeah, that was called supper.

22 Q And let's say the text message said breakfast  
23 tomorrow, did that mean a specific time, a hard time?

24 A It was always 6 or -- in between 6 and  
25 6:30 a.m.

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1                   Q     And where would you go at 6 or 6:30 a.m. the  
2 next morning?

3                   A     To Mrs. Peters's property, Hiio's mother's  
4 property.

5                   Q     Mr. Forget, if you can go ahead and look at  
6 that monitor and look at Government Exhibit 3. Take a second  
7 and let me know if you recognize what's depicted in  
8 Government Exhibit 3.

9                   A     Yeah, I recognize it.

10                  Q     Is Hiio's mother -- defendant's mother's  
11 property depicted on this exhibit?

12                  A     Yes, sir.

13                  Q     And is there a pen right up there? If  
14 you could use that pen and go ahead and draw Government  
15 Exhibit 3, can you indicate where Hiio's mother's property  
16 is, where the defendant's mother's property is?

17                  A     The whole property?

18                  Q     Sure.

19                  A     (Witness marking exhibit.)

20                  Q     How would you get to that property?

21                  A     You come in the road, the long driveway that  
22 comes off of the...

23                  Q     Are you coming from Malone, New York?

24                  A     Yes.

25                  Q     And so what roads would you take?

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1 A I'd take Route 37.

2 Q Do you see Route 37 on this -- on this map, on  
3 Government Exhibit 3?

4 A Yes.

5 Q And where would you go from 37?

6 A On to a -- I believe it's Drum Street.

7 Q Do you see Drum Street on this -- on  
8 Government Exhibit 3?

9 A Yes.

10 Q Okay. Go ahead and use that pen and if you  
11 can mark your route, please.

12 A (Marking exhibit). I think -- I think I'm  
13 coming from this way here (indicating).

14 Q Okay. Is that Drum Street you're turning on  
15 right now?

16 A Yeah, that -- that's Drum Street but you'd  
17 take a left on to, I don't honest -- I don't even know the  
18 name of the road where you take that left on to.

19 Q That's fine. Please continue.

20 A I think I went too far, sorry.

21 Q That's okay.

22 A (Marking exhibit.)

23 Q Okay. And what would happen when you would  
24 arrive at the defendant's mother's property?

25 A I would go to where the boat would come in or

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1 the snowmobiles.

2 Q I want you to take a look at the monitor  
3 again, I'm showing you what's -- or I'm showing you  
4 Government Exhibit 4.

5 Do you recognize Government Exhibit 4?

6 A Yes, sir.

7 Q And what is it?

8 A It's the property of Hiio's mother's.

9 Q And, I'm sorry, you said you would go where  
10 the boats came in?

11 A Yes.

12 Q Is that location depicted on Government  
13 Exhibit 4?

14 A Yes.

15 Q And where is that?

16 A (Marking exhibit.)

17 Q Can you describe that area right there?

18 A It's a canal that was dug out and the boats  
19 would come into there and that's where they would bring the  
20 marijuana in.

21 Q Let's talk about that a little bit. When you  
22 would arrive at this location, would Colin or whoever you  
23 were meeting, would they already be there?

24 A For the most part.

25 Q And who would come with the loads of

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1 marijuana?

2           A     It could have been Colin, Stefan. They had  
3 X-man at times come, also.

4           Q     Who's X-man?

5           A     Xavier.

6           Q     Do you know Xavier's last name?

7           A     Dauie (phonetic).

8           Q     Dauie?

9           A     Yes, sir.

10          Q     Is that a French name?

11          A     Yes, sir.

12          Q     Before I forget, did Colin have any type of  
13 nickname that you know of?

14          A     Farmer, Cowboy, C-man.

15          Q     And you said that Colin or Stefan or Xavier  
16 would arrive in a boat. What type of boat are we talking  
17 about?

18          A     It's kind of like a duck boat, hunting boat  
19 type.

20          Q     Did they always use the same boat or did they  
21 have various?

22          A     They had different boats.

23          Q     What would they do when they arrived at this  
24 canal?

25          A     They'd pull up and throw the bags on land and



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1 you'd start throwing them in the vehicles.

2 Q Now at first you're just acting as a scout; is  
3 that right?

4 A Correct.

5 Q So is there anything -- let me back up just a  
6 little bit. I take it you drove a vehicle to this location?

7 A Yes.

8 Q What vehicle would you use?

9 A My pickup or whatever I felt like taking.

10 Q Would someone else be there that would be the  
11 load vehicle, the vehicle that was actually transporting the  
12 marijuana?

13 A Yes.

14 Q So who was that have typically?

15 A Could have been Cheryl Lobdell, Jacques  
16 Trepanier, which came with the boat, also, because he was  
17 from the Canadian side.

18 Q So Jacques Trepanier would come over on the  
19 boat with Stefan or Colin?

20 A Yes.

21 Q Anybody else besides Jacques Trepanier and  
22 Cheryl Lobdell?

23 A As drivers out of there, Corey Spinner, also.

24 Q Do you recognize the individual depicted on  
25 Government Exhibit 22?

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1 A Yes, sir, that's Cheryl Lobdell.

2 Q So, other than the individual driving the load  
3 vehicle and the people that came over on the boat, was there  
4 anybody else that was ever present?

5 A Hiio would be there at times.

6 Q The defendant?

7 A Yes, sir.

8 Q What would the defendant do while he was  
9 there?

10 A He pretty much sat in his truck for, you know,  
11 talked to Colin or Stefan or whoever was there.

12 Q Where would defendant park his truck?

13 A A ways from the boat. I mean, he didn't -- if  
14 the vehicles were parked say (marking exhibit), he would park  
15 back a little bit like, say, here or something (marking  
16 exhibit).

17 Q Back closer to River Road?

18 A No, I guess I went too far. He wouldn't park  
19 behind the vehicles so we had room to put the things in.

20 Q And you said he would sit in the vehicle?

21 A Yes, sir.

22 Q Would Colin or Stefan or whoever came over on  
23 the boat, would they ever have a conversation with defendant?

24 A Yes, sir.

25 Q Did you ever hear what those conversations

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1 were about?

2 A Not really. In general they -- when they  
3 started talking there, when Colin or Stefan would go towards  
4 them, you know, we'd kind of just back away and let them talk  
5 whatever they're talking about.

6 Q You said when Colin and Stefan would go toward  
7 them?

8 A Toward Hiio, sorry, toward the vehicle.

9 Q At some point did you have an understanding of  
10 what the defendant's role was, if any?

11 A We were coming through his property.

12 Q Did Colin ever talk about what the defendant's  
13 role was or Stefan?

14 A I mean, they also said that he scouted.

15 Q We'll talk about that in a little bit. Did  
16 Colin or Stefan talk specifically about using the defendant's  
17 property?

18 A Yes.

19 Q What would they say?

20 A Just basically we're going to Hiio, Hiio's,  
21 Hiio mom's.

22 Q So going back to this typical trip, once the  
23 bags were unloaded and put into the load vehicle, what would  
24 happen then?

25 A For the most part, they would have Hiio go out

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1 and go ahead of us 'cuz he seemed to be more comfortable  
2 leaving before us, 'cuz he's native and you won't get  
3 bothered from the police as much leaving the reservation if  
4 you're a native.

5 Q And you mentioned a couple moments ago that  
6 the defendant would scout. Is this what you mean?

7 A Yes.

8 Q How do you know that the defendant was  
9 scouting for loads?

10 A They had told us.

11 Q Who?

12 A Stefan and Colin.

13 Q Well, what did they say?

14 A Big Guy is going to go ahead of you.

15 Q Would you sometimes see the defendant leave  
16 this area before the load vehicle?

17 A Yes, sir.

18 Q Were there other occasions when you showed up  
19 and the defendant wasn't there?

20 A Oh, yeah, at times he wasn't there.

21 Q Was that because he was already scouting or  
22 because he just wasn't in the area?

23 A Maybe just 'cuz he wasn't in the area, I  
24 assume, you know, I didn't ask many questions or...

25 Q Did you ever have any communications with the

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1 defendant while he was scouting, like if there was a problem  
2 or something like that?

3 A No.

4 Q Do you know what the defendant would do if  
5 there was a problem?

6 A He would get a hold of Colin.

7 Q Were there any instances in which the  
8 defendant communicated something to Colin, an issue or a  
9 problem?

10 A Yes. The phone would ring and Colin would say  
11 just hold up a few minutes, Big Guy's checking something out  
12 or there was a car coming down. I remember maybe a couple of  
13 times that they said there was a Saint Regis police coming  
14 down, they'd turn around and they'd just go back out so we  
15 just had to wait until they were gone.

16 Q After something like that would happen, would  
17 Colin get another call in a couple minutes or a couple  
18 minutes later?

19 A Yeah, just tell us we can go.

20 Q Do you know where the defendant would scout  
21 to?

22 A I mean, I know sometimes he went farther than  
23 others. He didn't always go as far as I've seen him, you  
24 know, or I was told that he might go all the way to 87 with  
25 us or something.

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1 Q Who would tell you that?

2 A Colin at times if, you know, if they wanted  
3 more scouts than -- just more eyes, I guess you could call  
4 it.

5 Q That brings up another issue. So if you were  
6 scouting, why would they want another person like the  
7 defendant to scout?

8 A The more eyes, the better, they'd say.

9 Q And why would sometimes the defendant go all  
10 the way to Interstate 87?

11 A Yeah, exit -- I believe it was Exit 28 or  
12 something like that that we would go to.

13 Q How do you know that the defendant would go  
14 all the way to Exit 28?

15 A Because at times if I'd see him coming on the  
16 other side of the interstate headed back north.

17 Q You would see him driving on the interstate?

18 A Yes.

19 Q Did you recognize his vehicle?

20 A The truck.

21 Q If the defendant wasn't going to Interstate  
22 87, where would he scout to?

23 A We didn't always know because we didn't always  
24 see him, to be honest with you. Could have been as much as  
25 Malone or Fort Covington, you know.

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1           Q     I've gotten a little bit ahead of myself, so  
2 I'd like to back up just for a second.

3           You mentioned that when Stefan and Colin would  
4 show up on the boats and they would unload these bags of  
5 marijuana; is that right?

6           A     Yes, sir.

7           Q     How do you know there was marijuana in the  
8 bags?

9           A     I was pretty much told that's what was in  
10 them.

11          Q     Were you told specifically that that's what  
12 was in them?

13          A     Yes.

14          Q     Who told you that?

15          A     Colin and Stefan, you know, that's what they  
16 were bringing into the U.S.

17          Q     Did you ever see inside the bags?

18          A     Yes, at times they'd have to open them up to  
19 put them in vehicles to get them in there better.

20          Q     To fit them in a small space?

21          A     Correct.

22          Q     Can you describe for the jury what it looked  
23 like inside the bags?

24          A     It was like freezer baggies, half gallon  
25 freezer bags and there was Ziploc zips, rewrapped with zip --

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1 air tight sealed bags.

2 Q Vacuum sealed?

3 A Yes, that's what I was looking for.

4 Q Okay. And would there be just a couple of  
5 bags or would there be a lot of bags?

6 A In the hockey bags?

7 Q Yes.

8 A There was quite a few.

9 Q Were they ever labeled?

10 A Yes.

11 Q Or marked in any way?

12 A Yes.

13 Q How so?

14 A They could be written something on the bag,  
15 the plastic bag itself or they could label the outside of the  
16 bag with different colored Ziplocs or tape, types of duct  
17 tape.

18 Q What would they write on the bags?

19 A I've seen all kinds of things. N39 Kush,  
20 Northern Lights, just.

21 Q Do you know what that means?

22 A It's just different -- different grades and  
23 type of marijuana.

24 Q Now I wanted to talk just for a moment about  
25 the residence. We're looking at on Government Exhibit 4. Do



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1 you see the residence enclosed in that black box?

2 A Yes, sir.

3 Q And when you first started working with Colin  
4 and Stefan, was that residence there?

5 A No, the foundation was there but there was no  
6 house.

7 Q Were they in the process of building the  
8 house?

9 A Yes, sir.

10 Q Do you know who was building that house?

11 A Yes.

12 Q Who was that?

13 A It was Jack and another guy that he had  
14 brought from Canada to build it.

15 Q Is Jack Jacques Trepanier?

16 A Jacques Trepanier.

17 Q Is there a relationship between Jacques  
18 Trepanier and Stefan Trepanier?

19 A They're father and son.

20 Q All right. I apologize. I had forgotten to  
21 ask you about those things.

22 So let's go back to you scouting and you've  
23 talked about this a little bit in terms of the defendant.  
24 But if you were scouting, where are you scouting to?

25 A I would go generally either to Exit 28 or to

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1 sometimes if they went to Glens Falls, I'd go as far as Glens  
2 Falls. Other times they went farther and they didn't need me  
3 more than -- they'd say let me go at Exit 28 and I'm fine.

4 Q And when you say Exit 28, is that Exit 28 off  
5 of I87?

6 A Yes, sir.

7 Q Why would you go to Exit 28?

8 A In case there was a road block at Exit 30, a  
9 checkpoint for the border patrol.

10 Q Is that a common thing for border patrol to  
11 have a checkpoint at that location?

12 A Yes, sir.

13 Q And, again, what if you ran into a checkpoint  
14 or you saw law enforcement out on, you know, even Route 37,  
15 what is it that you were supposed to do as a scout?

16 A Make -- try and get the word to the driver or  
17 get yourself pulled over somehow so the attention's on  
18 yourself and not them.

19 Q How would you communicate to -- let's say  
20 Jacques Trepanier is driving the load vehicle. How would you  
21 communicate with him?

22 A If you had to text him but they would, you  
23 know, as funny as it is, you never knew his number to be able  
24 to text him, if there was a problem, now that you think of  
25 it, you were never able to contact the driver.

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1 Q Were you able to contact Colin?

2 A Yes.

3 Q And if you contacted Colin, could he relay  
4 your information to the driver?

5 A Yes. My basic thing was if I was to get -- if  
6 there was a roadblock, I would try and get turned around as  
7 quick as I could to head back north to stop them.

8 Q Did you ever scout for vehicles that were  
9 traveling north and not south?

10 A Yes, sir.

11 Q And describe that for the jury, where would  
12 you start --

13 A Glens Falls.

14 Q Where would you --

15 A Glens Falls.

16 Q And why would you start there?

17 A 'Cuz that's where they made a switch with a  
18 buyer and the seller and the -- the person that would pay for  
19 the marijuana would be there and the person delivering would  
20 meet them there.

21 Q Okay. And why would you need to scout for  
22 someone going back north?

23 A If they were bringing money back.

24 Q How often did you do that?

25 A Probably half a dozen times at least.

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1           Q     And where would -- the person transporting the  
2 money, where would they go to?

3           A     To the reservation, to this property, Hiio's  
4 mother's.

5           Q     Defendant's mother's property?

6           A     Yes.

7           Q     Did you ever have an incident or an instance  
8 where you felt like you needed to get pulled over by law  
9 enforcement?

10          A     Yes, sir.

11          Q     Can you describe that, please?

12          A     I was traveling southbound following Jack in a  
13 pickup truck with a tonneau cover and there was an officer --  
14 I don't remember exactly which area it was at but it was on  
15 87, north, northbound -- sorry, traveling northbound and  
16 there was a state trooper in the middle in, like, where they  
17 pull the U-turns. And I noticed him looking at Jack like  
18 eyeballing him and he turned his wheels as he was ready to  
19 pull out but I was coming. So I saw that he -- excuse me --  
20 he was going to go after Jack, so -- excuse me -- the windows  
21 were pretty dark in my truck for that purpose that I could  
22 draw attention. So I kind of swerved right out of my lane  
23 across the center lane and swerved back quickly and I rolled  
24 my window up really fast and it got his attention and he  
25 pulled me over.

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1 Q Okay. What happened to Jacques Trepanier?

2 A He kept going.

3 Q Do you know if he made it to the defendant's  
4 mother's residence?

5 A Yes.

6 Q How do you know that?

7 A Because he got there and he was -- he was  
8 there when I got there.

9 Q You went up and met later?

10 A Yes.

11 Q Did you talk to Colin or Stefan about what  
12 happened?

13 A Yeah, Jack kind of -- Jack was really happy  
14 about it and told them, you know, he saved my butt, the  
15 trooper was going to pull me over.

16 Q Do you know what Jack was transporting that  
17 day?

18 A A lot of money.

19 Q Do you know how much money?

20 A They said it was about \$980,000.

21 Q Who said that?

22 A Colin and Stefan.

23 Q Did you receive anything, any benefit,  
24 anything extra from Colin or Stefan?

25 A Yeah, a big thousand dollars, thank you, pat

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1 on the back.

2 Q Another thing that I should have asked a  
3 little bit earlier.

4 So you said normally that Colin and Stefan  
5 would show up on boats, correct?

6 A Correct.

7 Q What would happen during the winter?

8 A Well, the lake would freeze over and they'd  
9 come over by snowmobiles.

10 Q The lake?

11 A The St. Lawrence, St. Francis, the same, the  
12 water --

13 Q Okay.

14 A -- would freeze over.

15 Q The St. Lawrence River?

16 A Yes.

17 Q Would you -- when the St. Lawrence river froze  
18 over, can you drive across it with snowmobiles?

19 A Oh, yeah.

20 MR. GARDNER: Now at this point, your Honor, this  
21 is probably a good place to stop.

22 THE COURT: It's a real good place to stop. It's  
23 about 4:28, almost 4:29, so we'll do that.

24 Ladies and gentlemen of the jury, I'm going to  
25 break for the day and get you out of here by 4:30, as

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1 promised.

2 Please don't talk about it with anybody. If  
3 anybody approaches you and tries to talk to you about this  
4 case, I need to know about it immediately. Do not listen or  
5 read anything about this case, should anything be reported in  
6 the media. Have a good night. Travel safe. We'll see you  
7 in the morning.

8 Please be in the jury room I'll do my best to  
9 endeavor to get started about 9 o'clock, okay. Have a great  
10 night.

11 (Jury excused, 4:29 p.m.)

12 THE COURT: Okay. Well, we're going to take our  
13 break for the day. I'm going to ask counsel just be here  
14 about five, ten minutes early. Make sure Mr. Forget is here  
15 so we can get him on the stand before we bring the jury in  
16 the room.

17 And I'm saying five, ten minutes early so if,  
18 Mr. Sacco, once you've had an opportunity to discuss this  
19 with your client the issue that's still outstanding with  
20 regard to a curative instruction for the jury, we can talk  
21 about that before the jury comes in, okay.

22 MR. SACCO: Sounds good, Judge, thanks.

23 THE COURT: Have a good night. We'll see you  
24 tomorrow.

25 MR. GARDNER: Thank you, your Honor.

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1 THE CLERK: Court's in recess.

2 (Recess taken, 4:29 p.m.)

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C E R T I F I C A T I O N

I, DIANE S. MARTENS, Registered Professional  
Reporter, DO HEREBY CERTIFY that I attended the foregoing  
proceedings, took stenographic notes of the same, that  
the foregoing is a true and correct copy of same and the  
whole thereof.

---

DIANE S. MARTENS, FCRR

JA-394

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

-----x  
UNITED STATES OF AMERICA,

Plaintiff,

vs.

13-CR-316

ALLAN PETERS, aka "Hiio",

Defendant.

-----x

Transcript of *JURY TRIAL - VOLUME III* held on  
January 29, 2014, at the James Hanley Federal Building,  
100 South Clinton Street, Syracuse, New York,  
the HONORABLE GLENN T. SUDDABY, Presiding.

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1 (Open court, 9:05 a.m.:)

2 THE COURT: Good morning, we're in the courtroom  
3 without the jury. Mr. Sacco, you were going to consult with  
4 your client, Mr. Peters, and discuss a potential curative  
5 instruction or what you wanted to do with regard to this  
6 recording that was played yesterday.

7 MR. SACCO: Yes, your Honor. I've thought about  
8 it. I've talked to Mr. Peters about it. I think the best  
9 course is to do something in your final instructions about  
10 any kind of information they may have received that -- I  
11 haven't formulated perfectly, but I don't -- my request that  
12 it not be anything specific about jail time or anything to  
13 draw attention to it, obviously more of a generic instruction  
14 that the evidence can be used for whatever the purpose is and  
15 it would be along the lines of any prior bad acts. It's  
16 difficult to formulate right here on my feet, Judge.

17 THE COURT: I understand. I'm not asking you to do  
18 that. I understand what you're requesting and that's what  
19 I'll do. I think it's an appropriate way to handle it,  
20 probably the best way to handle it. I've already had one of  
21 my clerks draft up some language. At some point probably  
22 today we'll have a charge conference, so I'll let you take a  
23 look at that language. You can submit something. Government  
24 can, obviously, give their input on what they think is  
25 appropriate and we'll deal with it in that fashion.

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1 MR. SACCO: Okay.

2 THE COURT: We're waiting for one juror.  
3 Apparently there was an accident on 690 and they got caught  
4 in traffic, so they should be here at any point. As soon as  
5 we have that juror, we'll start.

6 (Pause in proceedings.)

7 THE COURT: Okay. We have our entire jury.  
8 You all ready to start?

9 MR. GARDNER: Yes, sir.

10 MR. SACCO: Yes, your Honor.

11 THE COURT: Okay. Let's bring them in.

12 (Jury present, 9:11 a.m.)

13 THE COURT: Okay, good morning, ladies and  
14 gentlemen, good.

15 (Jurors say good morning.)

16 THE COURT: Good to see you all. Hope you had a  
17 good night. We have a nice, bright, sunny day. It's going  
18 to be sunny all day so that's good, at least for the  
19 disposition of everybody, I hope.

20 Yesterday when we concluded, Mr. Gardner was on  
21 direct examination. We're going to pick up where we left off  
22 and we're going to continue with the direct examination of  
23 Mr. Forget.

24 Go ahead.

25 MR. GARDNER: Thank you, your Honor.

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1 CONTINUED DIRECT EXAMINATION BY MR. GARDNER:

2 Q Morning, Mr. Forget.

3 A Good morning, sir.

4 Q When we were talking yesterday afternoon, I  
5 believe we had concluded talking about how you were working  
6 as a scout for Colin Stewart and Stefan Trepanier, is that  
7 correct?

8 A Yes, sir.

9 Q Now, at some point while you were working for  
10 Colin and Stefan, did you start to transport loads of  
11 marijuana yourself?

12 A Yes.

13 Q Approximately when was that or how long after  
14 you started working with them did that occur?

15 A Probably about in -- I want to say 2009.

16 Q And was there anything that precipitated that  
17 change, caused that change?

18 A Yeah, there were a couple of different issues,  
19 I believe.

20 Q Were those issues communicated to you?

21 A Basically one of their drivers had gotten shut  
22 off, they cut him off -- they cut her off.

23 Q Which driver?

24 A Cheryl Lobdell.

25 Q Why did they cut off Lobdell?

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1           A     I didn't quite get everything, but from what I  
2 understood that they had thought that she had been  
3 apprehended from the police and they didn't trust her.

4           Q     And you think this happened sometime in 2009?

5           A     I don't remember exactly when, honestly.

6           Q     So can you describe for the jury what  
7 happened. Did Colin or Stefan approach you and ask you to  
8 start transporting loads or was it something else?

9           A     There was -- I know Stefan and Colin had had  
10 their I guess issues and they ended up not working together  
11 any more and that's when Colin decided to put his own team  
12 together.

13          Q     Okay.

14          A     And he asked me to basically start bringing it  
15 out.

16          Q     So you're saying there was some kind of rift  
17 between Colin and Stefan?

18          A     Correct.

19          Q     Do you know what caused that rift?

20          A     From what I understood, loads being lost,  
21 conflicts between them, money, marijuana.

22          Q     You said loads being lost, did you mean  
23 marijuana loads?

24          A     Yes, sir.

25          Q     And you said that Colin wanted to form his own

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1 team, is that what you said?

2 A Correct.

3 Q Did you have any role in that?

4 A At that point I had -- he asked me to get  
5 drivers, recruit drivers to be able to continue over the  
6 road.

7 Q Drivers for the United States?

8 A Yes.

9 Q When you say drivers, do you mean curriers?

10 A Yes.

11 Q Were you able to recruit or find --

12 A Yes.

13 Q -- other drivers?

14 A Yes.

15 Q Specifically who did you find?

16 A Of course, Corey Spinner. There was Bill  
17 Lamaka (phonetic), Chris Searson (phonetic) and also we had  
18 several times or more Craig Flurry.

19 Q Who was the name you mentioned right before  
20 Craig Flurry?

21 A Chris Searson.

22 Q How did you know Chris?

23 A He's my neighbor.

24 MR. GARDNER: Your Honor, I would like to show the  
25 witness what's been marked as Government Exhibit 25 for

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1 identification.

2 Q Mr. Forget, do you recognize that exhibit?

3 A Yes, sir, that's Corey Spinner.

4 Q And is that a photograph of him?

5 A Yes.

6 Q Is that -- does that photograph accurately  
7 depict what Mr. Spinner looks like?

8 A Absolutely.

9 MR. GARDNER: Your Honor, the government would like  
10 to offer this into evidence as Government Exhibit 25.

11 THE COURT: Any objection?

12 MR. SACCO: No objection, your Honor.

13 THE COURT: Okay. It will be received.

14 Q So, Mr. Forget, can you describe for the jury  
15 how the -- well, let me ask a different question.

16 When Colin and Stefan split and Colin asked  
17 you to form or recruit guys, did it change the way that the  
18 organization functioned at all?

19 A No.

20 Q Did it change the way -- the manner in which  
21 the marijuana was coming into the United States?

22 A No, sir.

23 Q Were you continuing to use defendant's  
24 mother's property?

25 A Yes, sir.



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1           Q     And were you continuing to transport the loads  
2 from the defendant's mother's property all the way to their  
3 ultimate destination?

4           A     No, the -- at times it could be that way, but  
5 most of the time we would bring them to my -- my property.

6           Q     Where was your property located?

7           A     Malone, New York.

8           Q     Who made that decision?

9           A     They asked me if I, if it would be safe to  
10 bring it there. And I said, yeah, we should be all right to  
11 do that.

12          Q     So what was the point of only bringing it from  
13 the defendant's mother's property down to your property?

14          A     Cause it --

15          Q     Why not just bring it all the way is I guess  
16 is what I'm asking?

17          A     Because it was -- they'd want to sometimes  
18 divide it up into different vehicles, not all in the same --  
19 they'd say the same eggs in the same basket, basically. And  
20 myself or Corey Spinner would bring it to my place, to my  
21 property and from that point we would put it in the other  
22 vehicles.

23          Q     Using the other drivers you just mentioned?

24          A     Yes, sir.

25          Q     Craig Flurry and Chris?

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1 A Searson.

2 Q And Bill Lamaka?

3 A Yes, sir.

4 Q And what quantity of marijuana were you guys  
5 transporting?

6 A It was 100 to 200 pounds.

7 Q Per trip?

8 A Yes, sir.

9 Q And you mentioned that both you and Spinner  
10 were going to the defendant's mother's residence; is that  
11 right?

12 A Yes, sir.

13 Q I believe we talked about it yesterday, but,  
14 again, did the operation work similarly to when you were  
15 scouting that you would go to the -- looking at Government  
16 Exhibit 4, once the switch happened from working with Colin  
17 and Stefan to just Colin, did you continue to pick up the  
18 marijuana in the same manner that had been done before?

19 A Yes, sir.

20 Q Just go ahead, if you can, for a moment  
21 explain to the jury how they would work using Government  
22 Exhibit 4.

23 A Well, they would come in through the St.  
24 Lawrence through here to here and it would come out at the  
25 end where I stopped, loaded in the vehicles and then brought

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1 out here, so on.

2 Q And who is they?

3 A The people from Canada. Colin would come down  
4 the river to the property and then from the property on to  
5 land would be the drivers, Corey Spinner and myself or.

6 Q Was Colin still transporting the marijuana on  
7 the boat?

8 A Yes, sir.

9 Q Would anyone ever come with Colin?

10 A Yes, sir.

11 Q Who?

12 A There was Xavier Daue. There was another  
13 gentleman I -- at times, not often. I'd see him more on the  
14 snowmobiles. I just -- I don't remember his name. Canadian  
15 fella. There was -- like before that, it was Stefan but when  
16 they split up, it was Colin and his boat man.

17 Q You mentioned earlier that you worked with  
18 Jacques Trepanier; is that correct?

19 A Yeah.

20 Q And I believe you mentioned that Jacques and  
21 Stefan were related in some way?

22 A Yes, sir.

23 Q What was that relationship?

24 A Father and son.

25 Q When Colin and Stefan split, did you continue

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1 to work with Jacques Trepanier?

2 A No, sir, Jacques Trepanier was with Colin and  
3 Stefan and I -- sorry, I didn't -- when they would be  
4 together, Jack would also come in the boat and transport from  
5 the land off into the U.S.

6 Q Now you mentioned after this split occurred,  
7 you were transporting either 100 to 200 pounds of marijuana;  
8 is that right?

9 A Yes, sir.

10 Q Before the split when it sounds like you were  
11 just working as a scout, is that right?

12 A Yes, sir.

13 Q Did you know the amounts of marijuana that was  
14 being property transported?

15 A It was quite a bit more.

16 Q What was the most amount of marijuana that  
17 would come in?

18 A They had said like 480 pounds per load.

19 Q Who said that?

20 A Colin and Stefan.

21 Q Why were they transporting so much more  
22 before?

23 A They would put it in pickup trucks with  
24 tonneau covers.

25 Q How much marijuana could you fit in a regular

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1 pickup truck with a tonneau cover?

2 A Close to 500 pounds, I believe.

3 Q Would they use just one vehicle or two  
4 vehicles?

5 A No, there was two and three.

6 Q And I think you mentioned before, but who were  
7 the individuals driving those loads before?

8 A Jacques Trepanier and Cheryl Lobdell.

9 Q So why was there a change after Colin and  
10 Stefan split, why did it go from four or 500 pounds down to a  
11 hundred to 200 pounds?

12 A I believe losing so much they didn't want to  
13 continue risking because pickup trucks were getting more  
14 noticeable, I believe.

15 Q So if a hundred pound load -- Colin was  
16 bringing down a hundred pound load, who would transport that  
17 load?

18 A From through us, you mean?

19 Q Yes.

20 A Myself or Corey Spinner off the reservation  
21 And from there Chris Searson or Bill Lamaka.

22 Q What about if a 200-pound load came down,  
23 would either you or Spinner transport it yourself?

24 A Sometimes we would split it.

25 Q Meaning?

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1 A He would take half and I would take half.

2 Q Were there times that you transported loads  
3 without Spinner being there?

4 A Yes.

5 Q Were there times that Spinner would transport  
6 loads without you being there?

7 A At times.

8 Q And for all of the loads that you transported,  
9 whether you were physically transporting it yourself or  
10 acting as a scout, did you pick up loads of marijuana  
11 anywhere other than the defendant's mother's residence?

12 A No, sir.

13 Q So let's talk a little bit about how often you  
14 would transport loads of marijuana. You said you started  
15 sometime in 2009, I think you said?

16 A I believe so.

17 Q And did you stop transporting loads of  
18 marijuana on the day of your arrest?

19 A Absolutely.

20 Q And when was that?

21 A September 15th of 2010.

22 Q So, in that time period, that year, year and a  
23 half, how frequently would you go to pick up loads of  
24 marijuana?

25 A Usually every week. It happened at times

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1 where you -- where you couldn't in between the thawing or the  
2 melting of the river.

3 Q Was it fair to say there was dead areas where  
4 you couldn't get boats across the river or couldn't --

5 A Yes.

6 Q -- take snowmobiles across the river?

7 A Yes.

8 Q But you think on average you would go once a  
9 week?

10 A One to three times a week, maybe at times.

11 Q When you were busy?

12 A Yes.

13 Q When was the busiest times of the year?

14 A The summer and the fall.

15 Q During the winter would the frequency slow  
16 down?

17 A I wouldn't -- they still tried to do as much  
18 as they could I guess in a way to put it, at least a couple  
19 times a week.

20 Q Would you ever transport anything less than a  
21 hundred pounds?

22 A It has happened, 50 pounds or, you know, but  
23 they didn't, they -- they tried to stick to their hundred  
24 pounds.

25 Q Now you mentioned yesterday that when you were

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1 scouting, that the defendant would sometimes scout as well;  
2 is that right?

3 A Correct.

4 Q Once you started to transport loads, would the  
5 defendant still scout on occasion?

6 A Occasionally.

7 Q And since you were just bringing it down to  
8 your residence, did that change the way the defendant  
9 scouted?

10 A Yes, he didn't have to go as far. He'd go to  
11 Malone, if anything.

12 Q Once you delivered the -- let me rephrase  
13 that.

14 Once you or Spinner delivered the load to your  
15 residence, what would you do with it?

16 A We'd go in behind the garage, way out back and  
17 basically take it out and put it in the cars that were ready  
18 to go.

19 Q Were your drivers usually ready to go?

20 A Yes.

21 Q Okay. Were you putting it in your driver's  
22 cars or did you have a car for them to use?

23 A No, their driver's cars.

24 Q And where would the drivers take the marijuana  
25 from there?



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1           A     They'd basically go -- if they came to load up  
2 in the evening, they'd go to their house, to their residence  
3 and they'd leave early in the morning from there.

4           Q     Oh, okay. So they might take it from your  
5 house to their house?

6           A     Correct.

7           Q     Did you know what the ultimate destination was  
8 for these loads of marijuana?

9           A     They, they could be anywheres through New York  
10 City, Boston, Pennsylvania, Vermont, Rhode Island. They'd go  
11 all over but Colin would give me a piece of paper that would  
12 go with, say, Chris's load and I'd just give him that piece  
13 of paper. There would be a number on it and they would  
14 contact them.

15          Q     It would just have a number on it?

16          A     Yes.

17          Q     Would the drivers have any idea of the general  
18 direction that they were going?

19          A     Yes. It would say on the piece of paper  
20 basically where they had to go, New York City or Boston or.

21          Q     Would that piece of paper have a specific  
22 address on it?

23          A     No.

24          Q     Okay. So what was the purpose of the number?

25          A     To once they got within, I believe it was like

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1 an hour of their destination of basically the city where they  
2 were going to, then they would phone that number that was on  
3 that piece of paper and they would tell them where to go and  
4 they would basically just put it in their GPS and meet them.

5 Q Would they contact you or be more specific --  
6 would your drivers contact you once they had dropped off the  
7 load?

8 A Yes.

9 Q Do you know if your drivers ever picked up  
10 money to bring back north?

11 A Not that I know of, that wasn't a part of  
12 our...

13 Q Did you have to pay these drivers?

14 A Yes.

15 Q How much did you pay them?

16 A \$3,000 per trip.

17 Q And I take it you were still getting paid?

18 A Yes.

19 Q How much did you get paid?

20 A About 1500, sometimes 2,000.

21 Q Now, when you were picking up loads of  
22 marijuana from the defendant's mother's residence, would you  
23 often see him there -- would you see the defendant at the  
24 property when you were picking up loads of marijuana?

25 A Yes, sir.

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1 Q And generally what was the defendant doing?

2 A He'd either be coming through the yard if we  
3 were down by the water or if he was there already or he would  
4 come over to see us or up to his mother's residence,  
5 basically.

6 Q I think we talked about it a little bit  
7 yesterday but would the defendant speak to or have  
8 conversations with Colin?

9 A Yes.

10 Q Do you know what the nature of those  
11 conversations were?

12 A Never -- like I said yesterday, when they,  
13 when they would -- Colin would go over to him, basically we  
14 were talking, just shooting the breeze with him, we would  
15 basically just step away and let them do their talking  
16 privately.

17 Q Did you ever have conversations with the  
18 defendant?

19 A Yes.

20 Q I think you mentioned before you had known him  
21 for at least a few years?

22 A Yes.

23 Q Would you have some social conversations?

24 A Oh, yeah.

25 Q Did you ever talk with him about, about

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1 business?

2 A (No response.)

3 Q This business?

4 A He would just basically, if anything, would  
5 ask me what's going on, waiting for Colin or something like  
6 that. At times I guess he didn't seem to know that they were  
7 coming in or something, you know.

8 Q Did the defendant ever talk about Colin using  
9 this property?

10 A Yes.

11 Q What did he say?

12 A Just that he kind of wanted to know when  
13 people were coming in and off the property. He'd get upset  
14 about it if he didn't know.

15 Q If he didn't know Colin was coming?

16 A Yes.

17 Q Why did that upset him, did he say?

18 A Just that he didn't -- he wanted to know what  
19 was going on through there, you know. He didn't want people  
20 that had no permission to be there coming in and off the  
21 property.

22 Q Did he ever talk about having problems with  
23 other people using this property without his permission?

24 A Yes.

25 Q Can you describe that?

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1           A     Just that he knew that people were coming in  
2 and off the property and that he was going to end up putting  
3 a gate up so that, you know, he could lock it down more  
4 secure.

5           Q     Where did he want to put a gate up, did he  
6 say?

7           A     Yes.

8           Q     Where?

9           A     Right out at the end of the driveway.

10          Q     Looking at Government Exhibit 3, can you  
11 locate on Government Exhibit 3 where this gate would be?

12          A     (Marking exhibit.) I'm not 100 percent sure  
13 looking at this. It's kind of difficult but I'll do it to  
14 the best of my knowledge. Somewhere in there, I think  
15 (marking exhibit).

16          Q     Now was there a gate already erected or was  
17 the defendant talking about putting up a gate?

18          A     I believe there was a gate, a big steel --  
19 you'd swing it over.

20          Q     So what was the defendant talking about,  
21 locking that gate?

22          A     Correct.

23          Q     When you came in to the defendant's mother's  
24 property, was that gate ever closed that you can remember?

25          A     To tell you the truth, I don't -- I don't

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1 think so.

2 Q Now, you mentioned that Colin was paying you;  
3 is that correct?

4 A Correct.

5 Q And you said that Colin was paying you around  
6 1500 to 2,000?

7 A Yes.

8 Q And what was that for?

9 A For my role of recruiting the drivers and  
10 taking it out.

11 Q And you said that you would pay your drivers  
12 3,000 per trip?

13 A Yes.

14 Q Where did that 3,000 come from?

15 A Just basically like \$30 for each pound.

16 Q I guess what I'm asking is, if Colin's giving  
17 you 1500 to 2,000 and you're paying your drivers 3,000,  
18 you're not making any money?

19 A They were taking the most of the risk going so  
20 much farther.

21 Q I guess I'm not phrasing this quite right.  
22 Did Colin give you 4500 to \$5,000?

23 A Yes.

24 Q And you kept 1500 to \$2,000?

25 A Yes.

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1                   Q     And you would give the other \$3,000 to your  
2 driver?

3                   A     Yes.

4                   Q     Okay.

5                   A     Also, if -- with Spinner's role, Spinner would  
6 get 1500, also. So it was more or less like six to \$7,000 to  
7 take the stuff out, like \$70 a pound, I think it was.

8                   Q     Was that something you and Colin had agreed  
9 upon?

10                  A     Basically kind of what they gave me.

11                  Q     Would Colin pay you in United States currency  
12 or Canadian currency?

13                  A     For the most part it was American funds.

14                  Q     Would he sometimes pay you in Canadian  
15 currency?

16                  A     On a couple of different occasions he did.

17                  Q     And when he paid you in Canadian currency, did  
18 you have to take steps to exchange that currency?

19                  A     Yeah, I was kind of upset with him because I  
20 didn't, I said, you know, what am I supposed to do with this.  
21 I can't pay the people in Canadian funds and then I -- I  
22 asked the Big Guy if he could exchange it for me.

23                  Q     The Big Guy being the defendant?

24                  A     Yes.

25                  Q     And what did he say?

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1 A Sure. He said he could do that.

2 Q Would he do that for you right away?

3 A I would give him the bag and he'd go up to his  
4 mother's property and come back with the money or just go up  
5 there with him.

6 Q I want to talk about a couple things there.  
7 You said that you would give him the bag. What was the bag?

8 A Bag with a money in it.

9 Q How would -- can you describe how Colin would  
10 pay you?

11 A In a paper bag or plastic bag or some sort.

12 Q With cash, I take it?

13 A Yes, sir.

14 Q And was the cash just loose in that paper or  
15 plastic bag?

16 A No, it was bundled in like thousand dollar  
17 piles.

18 Q Did it have bank wrappers on it or just rubber  
19 bands?

20 A No, just rubber bands.

21 Q And would Colin pay you after each trip?

22 A No.

23 Q Did you have a running bill with Colin that he  
24 owed you money?

25 A Yes, sir.



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1           Q     You said sometimes you would just hand the  
2 Canadian currency to the defendant and he would walk up to  
3 the residence?

4           A     Yeah, we'd go up with his vehicle.

5           Q     Mr. Forget, if you could look at Government  
6 Exhibit 4, do you see the residence that you were talking  
7 about in this exhibit?

8           A     Yes, sir.

9           Q     Can you point to it with that pen, please?

10          A     The home is that one.

11          Q     Okay.

12          A     His -- his garage is the one across from the  
13 home (marking exhibit).

14          Q     And did you ever go to the residence, the  
15 building on the right there?

16          A     The home?

17          Q     Mm-mm.

18          A     Never been inside.

19          Q     Had you ever been in that garage?

20          A     Yes.

21          Q     How many times do you think?

22          A     Several times, three, four times.

23          Q     Was it always to have the defendant exchange  
24 the Canadian currency into U.S. currency?

25          A     No, at times I could be coming to the property

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1 for supper and I'd go -- if they weren't there yet and I was  
2 early or something, I'd go up see if he was there just to  
3 talk with him or something and tell him they were coming in.

4 Q And on those occasions when you followed him  
5 up to the garage when he was exchanging the Canadian currency  
6 for U.S. currency, can you describe what would happen?

7 A He'd go inside and count the money and give me  
8 the American funds out of a box.

9 Q Would the defendant count the money?

10 A Yeah.

11 Q Would you count it together or would he just  
12 count it?

13 A He'd count it.

14 Q Would he do that by hand or did he have money  
15 counters?

16 A He had a money counter.

17 Q And what was in that garage?

18 A Table, fridge, flat screen TV, tools, could  
19 have been a race car in there, motors.

20 Q You mentioned that you saw the defendant and  
21 Colin interacting from time to time; is that right?

22 A Yes, sir.

23 Q Did you ever see Colin hand the defendant  
24 anything like a package?

25 A Yes, sir.

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1 Q How often would you see that?

2 A I've seen it at some different occasions. I  
3 didn't see it every time I'm sure but I've seen it happen at  
4 different occasions.

5 Q And what type of package would Colin hand the  
6 defendant?

7 A A paper bag or a plastic bag or something.

8 Q Was it very similar to the packages of money  
9 that Colin would give you?

10 A Yes.

11 Q Did Colin or the defendant ever tell you what  
12 was in that bag?

13 A No.

14 Q When Colin would hand the defendant that bag,  
15 did Colin make any statements or say anything?

16 A No, just basically here.

17 Q He didn't indicate what it was for or anything  
18 like that?

19 A He might have said this is for last time or  
20 something like that.

21 Q Do you know if the defendant ever exchanged  
22 currency for Colin?

23 A No, I don't know that.

24 Q Do you know whether the defendant ever  
25 purchased or sold marijuana himself?

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1 A I've never seen him do it.

2 Q Did you ever have any conversations with  
3 anyone else in this group about the defendant acquiring  
4 marijuana?

5 A Yes.

6 Q And who was that?

7 A Xavier Dauie.

8 Q And I can't remember if I asked you yesterday,  
9 did Xavier have a nickname?

10 A X-man.

11 Q What did Xavier or X-man say about his  
12 relationship with the defendant?

13 A He had -- I had heard him say at different  
14 times, you know, he had to get up and see the Big Guy, bring  
15 him some pretty stuff, speaking of high grade marijuana or  
16 something like that.

17 Q He would use the term "pretty stuff"?

18 A Yes.

19 Q And you understood that to be high grade  
20 marijuana?

21 A Yes.

22 Q Did you ever see Xavier give the defendant  
23 anything?

24 A Yes.

25 Q Can you describe that, please?

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1 A Bag.

2 Q What kind of bag?

3 A Duffel bag basically and they'd go in the  
4 garage. I -- I wasn't clearly stupid. I pretty much knew  
5 what it had to be. After him basically telling me that he  
6 had to, you know, go see him.

7 Q Give him the pretty stuff?

8 A Right.

9 Q You mentioned that you and the other drivers  
10 would often drive trucks; is that right?

11 A Yes, sir.

12 Q Were there specific vehicles that the  
13 organization had that you and the other drivers used or did  
14 everybody use their own vehicles?

15 A Well, at the beginning they used an old, old  
16 Ford truck with a cap on the top to take the marijuana from  
17 there off the reservation and then they would use regular  
18 pickup trucks with just a tonneaus cover to transport it the  
19 rest of the way.

20 Q Were you familiar with some of the vehicles  
21 that this group used?

22 A Yes, sir.

23 Q Can you describe some of the vehicles?

24 A There was the older Ford pickup with the old  
25 camper top. There was a gray or silver Ford F150, just a --

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1 just a single cab with a tonneaus cover, I believe it was  
2 four wheel drive. I think they were all four wheel drive, to  
3 be honest with you. There was a -- at one time there was a  
4 Ford F150 King Cab red with a tonneaus cover.

5 Q Who used that vehicle?

6 A Cheryl or Jack had used it.

7 Q Please continue.

8 A And then there was a tan four wheel drive. It  
9 was a Chevrolet pickup truck with a tonneaus cover, also.

10 Q Who used that vehicle?

11 A Cheryl.

12 Q Was that vehicle registered in Cheryl's name?

13 A Her brother's.

14 Q Do you know how that vehicle was purchased?

15 A Yes, sir.

16 Q How?

17 A They asked me to try and find them a vehicle  
18 to transport the marijuana and I found it in Malone at a car  
19 dealer.

20 Q Who asked you to do that?

21 A Colin.

22 Q What car dealership did you use?

23 A I believe it was Sullivan's.

24 Q Did you have to use your own money?

25 A No, I just basically told them how much it was

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1 and they'd give me the money to go get it.

2 Q How much money or how much did that vehicle  
3 cost?

4 A I don't remember 100 percent. It -- I want to  
5 believe it was seven to \$10,000, possibly.

6 Q So they gave you somewhere -- Colin gave you  
7 somewhere between seven and \$10,000 in cash?

8 A Correct.

9 Q Did you ever use that vehicle?

10 A No.

11 Q Any other vehicles that you can recall?

12 A There was a dark-colored Chevy or GMC, also  
13 with a tonneaus cover on it.

14 Q And who was it registered under that vehicle,  
15 if you know?

16 A I don't know.

17 Q Do you know how that vehicle was purchased?

18 A From what Colin and Stefan had told me, when  
19 they had bought that vehicle, that they had the defendant  
20 purchase it.

21 Q That's what Colin and Stefan told you?

22 A Correct.

23 Q Did they mention where the defendant got the  
24 vehicle from?

25 A In Massena, I think it was Frenchie's I think

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1 it was.

2 MR. GARDNER: Your Honor can I just have a moment,  
3 I actually have quite a bit more, but I just.

4 THE COURT: Okay.

5 (Discussion held off the record.)

6 Q Mr. Forget, there's one -- I want to go back  
7 for just a minute before I move on to other things.

8 We were talking earlier about Jacques  
9 Trepanier and how he was one of the drivers for this  
10 organization; is that right?

11 A Yes, sir.

12 Q And I believe you indicated that he would come  
13 with Colin or Stefan across the St. Lawrence by boat; is that  
14 correct?

15 A Correct.

16 Q Or snowmobile in the winter?

17 A Correct.

18 Q And then you said that he would -- Jacques  
19 Trepanier would then transport a load of marijuana?

20 A Correct.

21 Q So if he came across by boat or snowmobile,  
22 what would he use to transport the load of marijuana?

23 A One -- one of the trucks.

24 Q Was there a vehicle waiting for him?

25 A Yes.



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1           Q     How would that vehicle get to the defendant's  
2 mother's property?

3           A     The driver would return it there.

4           Q     Explain that a little more.

5           A     The driver could either return it there or get  
6 a ride back from myself, if anything.

7           Q     Let me make sure I understand. So if Jacques  
8 Trepanier made a trip on one occasion and came back, would he  
9 leave his vehicle at the defendant's mother's property?

10          A     At times, yes, it could stay there.

11          Q     And then other times you might give him a  
12 lift?

13          A     Yes.

14          Q     Okay.

15          A     Till they stopped using the old Ford truck.  
16 Most of the times the trucks with the tonneaus covers did not  
17 leave. They did not go to the reservation. Then when they  
18 stopped using the old truck, they would basically take it off  
19 the reservation with the trucks and the tonneaus covers.

20          Q     Other than delivering to the final destination  
21 like New York City or Boston or something like that, and  
22 delivering to your residence, did you or members of the group  
23 deliver to any other residence in the area?

24          A     Yes.

25          Q     Where?

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1           A     He's passed away now but his name was George  
2 King.

3           Q     And where was George King's residence?

4           A     Just out of Malone off the Moody Road.

5           Q     And why would you or the other drivers deliver  
6 to George King's residence?

7           A     Because there would be different people that  
8 would go pick it up there, as well as they would take the  
9 trucks with the marijuana from there to their destinations.

10          Q     Okay. Would your drivers like Bill Lamaka and  
11 Chris Searson go and pick up loads from George King's place?

12          A     No, they were never a part of anyone from  
13 there. I don't remember what year it was when George passed  
14 away but he was getting to the point he was so sick that they  
15 just -- they stopped going there.

16          Q     Did they use his residence like a stash house?

17          A     Yes.

18          Q     And were there -- I take it there were  
19 separate drivers that would pick up from there?

20          A     Yes.

21          Q     Did you know who those drivers were?

22          A     Never.

23          Q     Why not?

24          A     They were guys from different cities, I just  
25 never seen them.

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1                   Q     Did you yourself deliver any loads to George  
2 King's house?

3                   A     I always just scouted when it was at George  
4 King's property.

5                   Q     All right. I'd like to direct your attention  
6 to September 15th, 2010, do you recall that day?

7                   A     Unfortunately, yes.

8                   Q     Did you pick up a load of marijuana on that  
9 day?

10                  A     Yes, sir.

11                  Q     And why did you pick up that load of  
12 marijuana?

13                  A     At the property that we're speaking of on the  
14 exhibit.

15                  Q     The defendant's mother's property?

16                  A     Correct.

17                  Q     And when you picked up that load of marijuana,  
18 did you have a scout that day?

19                  A     No.

20                  Q     Was the defendant present at his mother's  
21 property that day?

22                  A     No.

23                  Q     Do you remember why you didn't have a scout or  
24 why the defendant wasn't at the property?

25                  A     Spinner was supposed to go and do that and I

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1 was going to scout and he told me that he couldn't do it,  
2 something came up and I had -- I had told Colin I didn't have  
3 a good feeling that day, just something in my stomach was  
4 tearing me apart and I didn't want to do it and he just kind  
5 of cussed at me a bit and he says you're going to do it,  
6 that's all there is to it. They're waiting on it and it's  
7 got to go.

8 Q And do you remember why the defendant wasn't  
9 at the property that day?

10 A There was another gentleman there and I asked  
11 him, I said, where's Hiio at and he didn't know. He said, I  
12 don't know, I haven't seen him all day.

13 Q Do you remember why Spinner didn't go?

14 A He just told me that something had came up and  
15 he couldn't do it but it wasn't like him to do that.

16 Q What happened after you pick up the load and  
17 you left the defendant's mother's property?

18 A I was driving. I felt like throwing up  
19 because I was so nervous. I just knew something wasn't right  
20 and I was leaving and I was going to get gas, which I would  
21 never do leaving. I would always get gas before and I took a  
22 different route and the police took after me.

23 Q You said you stopped to get gas, where was  
24 that?

25 A I was going to --

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1           Q     Well, if you can go ahead and on Government  
2 Exhibit 3, can you show us what route you normally took from  
3 the defendant's mother's property?

4           A     (Marking exhibit.)

5           Q     And when you're crossing the border there,  
6 have you ever encountered law enforcement officers at that  
7 location?

8           A     No, no, sir.

9           Q     All right. Now, can you show the jury using  
10 Government Exhibit 3, the route you took on September 15th,  
11 2010?

12          A     (Marking exhibit.)

13          Q     You mentioned at some point you encountered  
14 law enforcement officers?

15          A     Can you erase this at all? They were sitting  
16 right there.

17          Q     Right at the end of Cook Road?

18          A     Right in the corner.

19          Q     And do you know what's located on the  
20 intersection of Cook Road and Route 37?

21          A     It's a gas station.

22          Q     Do you know what the name of that gas station  
23 is?

24          A     Truck stop number nine.

25          Q     Was that where you were going to stop to get

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1 gas?

2 A I wasn't sure what I was doing. I was so  
3 nervous.

4 Q What happened when you encountered those law  
5 enforcement officers?

6 A I went, I was -- I went to pull over. I was  
7 going to pull over and then there was another law -- police  
8 car coming straight at me and, as I was pulling over, he was  
9 going to cut me off and I just -- I panicked and I just took  
10 off.

11 Q Is it fair to say you led police on a high  
12 speed chase?

13 A Unfortunately, yes, it is.

14 Q Is it fair to say that you drove in excess of  
15 a hundred miles an hour that day?

16 A Yes, sir.

17 Q It was incredibly dangerous, wasn't it?

18 A Pretty stupid.

19 Q You're very lucky you didn't injure or kill  
20 someone?

21 A Yes.

22 Q Can you describe how the chase ended?

23 A I ditched my truck. I was practically running  
24 out of gas and I took off running through the woods and then  
25 they foot chased me and --

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1 Q Where did you ditch your truck?

2 A Off the Limekiln Road in Malone.

3 Q In the woods?

4 A Yes, in the woods behind a residence, an old  
5 house or barn it was.

6 Q What were you trying to accomplish?

7 A Just to get away. I was so scared.

8 Q The vehicle you were driving, was it your  
9 vehicle?

10 A Yes, sir.

11 Q It was registered in your name?

12 A Correct.

13 Q And you said you took off running in the  
14 woods?

15 A Correct.

16 Q Were you trying to get to a particular  
17 location?

18 A I was trying to -- I didn't really know what  
19 to do and then I kind of knew where I was at, and I was going  
20 for the river.

21 Q Why were you going for the river?

22 A 'Cuz I just knew at that point I had -- sorry.  
23 I had called my wife and pretty much told her I loved her and  
24 all that and the police were after me and my lawyer told me  
25 to give myself up and my wife wasn't sure she had -- she was

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1 at work and they have a scanner there and she heard that  
2 there was -- she thought there was gun shots, so she didn't  
3 know if they were shooting at me or what. Anyways, I was  
4 trying to get to the river figuring that by that time they  
5 had the dogs after me and I could escape the scent with the  
6 water.

7 Q Did you make it to the river?

8 A Close but, no, I didn't. There was too many  
9 police cars out on the road every where and I couldn't get  
10 through the fields to the water and I just hid under a  
11 police -- under an old truck and the police came out.

12 Q You mentioned that when you picked up a load,  
13 you would get a piece of paper with a destination and a phone  
14 number is that correct?

15 A Correct.

16 Q Did you have that piece of paper with you that  
17 day.

18 A I did until I started running through the  
19 woods and I was so scared just I tore it up into pieces and I  
20 shoved it down in the mud in the swamp.

21 Q Mr. Forget, do you recognize Government  
22 Exhibit 8A?

23 A Yes, sir.

24 Q And what is it?

25 A That's my truck.



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1 Q Is this where you ditched it in the woods?

2 A Yes, sir.

3 Q Do you recognize Exhibit 8B?

4 A I believe they're the bags that were put into  
5 my truck.

6 Q Do you recognize Government Exhibit 8C?

7 A I didn't open them, so, I mean, but it's  
8 obviously marijuana in the bags.

9 Q Now, if you can see on the left, left-hand  
10 part of the photograph there appears to be like a red tag on  
11 the handle of that bag, can you see that?

12 A Yes, sir.

13 Q Do you know what that means?

14 A That was for different destinations to where  
15 the marijuana was going.

16 Q Did you know what the red meant versus  
17 something else?

18 A Yeah, it would -- they would tell me like this  
19 piece of paper is for the red bags or say blue tape, this  
20 piece of paper was for the blue bags.

21 Q Do you recognize what's in 8D?

22 A Marijuana.

23 Q Do you see the writing on that package right  
24 there, 100 PKG.

25 A Yes, sir.

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1                   Q     Did you ever see writing like that on the  
2 marijuana packages?

3                   A     No, sir.

4                   Q     Do you know what that means?

5                   A     I'm assuming 100 packages.

6                   Q     And looking at 8C, you can see on the package  
7 it's written BB?

8                   A     Yes, sir.

9                   Q     Do you know what that means?

10                  A     There was at times different letters on them.  
11 I don't know if it was who it belonged to or if it was a  
12 brand of marijuana, I'm not -- I'm not quite sure.

13                  Q     Also in this photograph in the top right-hand  
14 corner, you can see blue tape around the handle?

15                  A     Correct.

16                  Q     Is that what you were talking about earlier?

17                  A     Yes, sir.

18                  Q     So in this particular load, was there one  
19 destination for the red tape, one destination for the blue  
20 tape?

21                  A     That's correct, sir.

22                  Q     Are you familiar with brands of marijuana?

23                  A     Some of them, yes.

24                  Q     You mentioned that you used marijuana for  
25 years, correct?

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1           A     Yes, sir.

2           Q     Are you familiar with the different prices for  
3 marijuana, like?

4           A     Yes, sir.

5           Q     Prices per pound?

6           A     Yes.

7           Q     Can you describe that a little bit for the  
8 jury?

9           A     Well, if you -- if you purchased the outdoor  
10 grown marijuana is cheaper than the indoor grown marijuana,  
11 which they call the high grade.

12          Q     Is the difference between indoor and outdoor  
13 simply that one is grown out in the field and one is grown  
14 inside a building?

15          A     No. Excuse me.

16          Q     Outdoor is grown out in the field and indoor  
17 is grown inside of a building?

18          A     Yes, yes, I'm sorry.

19          Q     Are you familiar at all with how the marijuana  
20 is grown indoors?

21          A     There's all different ways. I believe there's  
22 either with water or under lights. They all have to be under  
23 lights but some are with water, some are in dirt and they're  
24 just more, more potent, I guess you would say.

25          Q     And I think you indicated that the indoor

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1 marijuana was a higher grade?

2 A Higher cost, higher grade, higher cost.

3 Q Let's start with the outdoor marijuana. Are  
4 you familiar generally with the pricing for outdoor  
5 marijuana?

6 A I was at the time I mean.

7 Q Actually, that's what I want you to focus on.

8 A Right. Right. Could be anywhere from 1500  
9 to 2,000 per pound.

10 Q Per pound and how about for indoor marijuana?

11 A Indoor marijuana I've heard people getting as  
12 much as three to \$4,000 a pound. It depends how far you go  
13 with it.

14 Q What about the marijuana Colin was in  
15 possession of and selling?

16 A There again, all different prices. The  
17 outdoor and the indoor, and I -- I had seen some of it and  
18 some looked quite -- you can tell when it looks -- the  
19 quality is there.

20 Q Did you ever talk about pricing with Colin  
21 specifically?

22 A (No response.)

23 Q Like how much he was getting per pound?

24 A No, he didn't discuss that with us -- or me.

25 Q So after your arrest on September 15th, 2010,

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1 did you agree to cooperate with law enforcement officers?

2 A Yes, sir.

3 Q At some point after that date did Colin  
4 Stewart attempt to contact you?

5 A Yes, sir.

6 Q How did he contact can you?

7 A He -- a gentleman I know of in Canada, Hubert  
8 Rushlough had brought a bag with telephones to my residence.

9 Q Did you talk to Hubert when he brought this  
10 bag of phones?

11 A He had basically told me that he brought  
12 something -- that he had dropped something off from Colin.  
13 Colin had gave him the money and he went and purchased them.

14 Q When Hubert brought you these phones, did they  
15 have any information preprogrammed into it?

16 A You basically had to set them up to -- for the  
17 line to be active.

18 Q So when Hubert brought you the phones, they  
19 didn't even have an active -- they had not been activated  
20 yet?

21 A No.

22 Q Did Colin Stewart contact you on those phones?

23 A Yes, sir.

24 Q And did you communicate with him through voice  
25 calls or text messages?

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1 A Text messages.

2 Q What was the general nature of your  
3 conversation with Colin through text messages at first?

4 A Basically you could say like work tomorrow or  
5 breakfast at the Big Guy's.

6 Q I'm sorry, I was -- I wasn't very clear so  
7 we're talking about after your arrest on September 15th,  
8 2010?

9 A Right.

10 Q You were cooperating with law enforcement,  
11 correct?

12 A Right.

13 Q Who were you working with specifically in law  
14 enforcement?

15 A Agent Hermes.

16 Q And my question was at some point did Colin  
17 reach out for you over the phones that Hubert dropped off?

18 A Yes, sir.

19 Q After your arrest?

20 A Yes, sir.

21 Q So what was the general nature of those text  
22 messages?

23 A They want -- he wanted, they were -- he was  
24 trying to find out about paperwork on the marijuana and I  
25 didn't have any and then he want -- he wanted to meet with me

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1 and try to start work.

2 Q Okay. Why didn't you have any, what do you  
3 mean by paperwork?

4 A From the marijuana, from my police chase, the  
5 marijuana.

6 Q Like what kind of paperwork?

7 A Kind of saying what they confiscated from me  
8 in general I guess.

9 Q Do you know like law enforcement reports?

10 A Correct.

11 Q And why would Colin want those?

12 A To show the people above him what had  
13 happened, that I didn't steal the marijuana or try and get  
14 away with it without -- without paying for it or something  
15 like that.

16 Q Is it fair to say that the law enforcement  
17 report would prove that you hadn't stolen it?

18 A Absolutely.

19 Q Did you tell Colin Stewart what exactly had  
20 happened on September 15th, 2010?

21 A Not exactly.

22 Q Do you recall what you told him?

23 A Yes.

24 Q What was that?

25 A I just told him that there was -- there was a

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1 chase and that I managed to get away at different occasions  
2 and I ditched the marijuana, got rid of it. And then I  
3 ditched my truck and I took off running and that they caught  
4 me but they didn't have nothing on me.

5 Q Why did you tell Colin Stewart that, why not  
6 just tell him the truth, that the police seized the  
7 marijuana?

8 A Because I was petrified of him.

9 Q I want to direct your attention to October 27,  
10 2010. Were you contacted by Colin Stewart around that time  
11 period?

12 A Yes, sir.

13 Q Or I guess specifically on that day?

14 A Yes, sir.

15 Q Again how did Colin contact you?

16 A Through text message, sir.

17 Q Did you set up a meeting with Colin Stewart?

18 A Corey Spinner was destined to go to the  
19 defendant's property to pick up money for me which I had --  
20 they had promised me if ever anything happened, that they  
21 would pay for my lawyer, take care of my family, my bills,  
22 debts, anyhow, and that I told them I needed money for a  
23 lawyer.

24 Q Let me back you up just a little bit. At some  
25 point in that time period, whether it was October 27th or,



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1 you know, a day or two before or after, did you go and meet  
2 with Colin Stewart? Did you have a face-to-face meeting with  
3 him?

4 A Yes.

5 Q Where was that meeting?

6 A I believe it was at his house.

7 Q Did you talk to Special Agent Hermes about  
8 this meeting?

9 A Yes.

10 Q I'm sorry, you said his house. Where is his  
11 house?

12 A Elgin, Quebec.

13 Q Is that E-L-G-I-N?

14 A Correct.

15 Q And what did Special Agent Hermes tell you  
16 about this meeting?

17 A Well, I was trying to get the money to which I  
18 had -- I told Colin I needed the money for a lawyer but I  
19 agreed on just turning it over to law enforcement and I  
20 wanted to get it for them and he was trying to tell me just  
21 let's -- let's try and get it through the reservation and  
22 have Colin bring it to you. And I just -- I just wanted to  
23 do right and he told me I can't protect you over there.  
24 There's nothing -- I can't tell you to not go and I can't  
25 tell you to go. But I can't protect you there. So you're on

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1 your own.

2 Q So what happened at your meeting with Colin at  
3 his residence in Elgin, Quebec?

4 A We just kind of talked again about the chase,  
5 what had happened and I was just quite nervous just being  
6 there.

7 Q Did -- did Colin give you money at that time?

8 A No, sir.

9 Q Did you make any arrangements with Colin to  
10 get money at a later date?

11 A Yes, sir.

12 Q Can you describe that, please?

13 A That he was going to go up by boat on the  
14 reservation to the defendant's property and hand the money  
15 over. I was going to have Corey Spinner go and get it for  
16 me.

17 Q After that did you make arrangements with  
18 Spinner for him to go meet with Colin and pick up the money?

19 A Yes, sir.

20 Q And when did that occur?

21 A I believe like right within a day or so.

22 Q Did you meet with Spinner?

23 A Yes, sir.

24 Q And what happened when you met with Spinner?

25 A We went for a ride. We pretty much talked

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1 about how to do it and where he could go and I told him that,  
2 you know, I'd let you know -- actually I told him I would --  
3 I believe I told him, I'll let you know what time to go down  
4 to the Big Guy's property and meet with Colin and get the  
5 money and just bring it back to me so that I can pay my  
6 lawyer.

7 Q Did you tell him what day it would happen?

8 A I believe so.

9 Q Do you remember how close in time the pickup  
10 was supposed to be?

11 A It was close within the time that I had spoke  
12 to Colin because Colin had sent me a text message that he  
13 would -- that he had organized a dropoff date and time.

14 Q I want to talk about that text message but  
15 before I forget: When you were talking to Colin, did you ask  
16 for a certain amount of money?

17 A I asked, yeah, I asked him for -- 'cuz he owed  
18 me like \$60,000 and I told him, I said, I need it for my  
19 lawyer and he said, you're not getting that.

20 Q Why do you say he owed you \$60,000?

21 A Because he wouldn't pay me all the time and I  
22 didn't need that kind of money at all times and I just left  
23 it there.

24 Q Colin would hold on to your money?

25 A Yes.

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1           Q     Mr. Forget, can you please look at Government  
2 Exhibit 9A. Do you recognize that exhibit?

3           A     Yes, sir.

4           Q     What is it?

5           A     It's a text message from Colin.

6           Q     To who?

7           A     Myself.

8           Q     Is that your cell phone we're looking at in  
9 Government Exhibit 9A?

10          A     Yes, sir.

11          Q     Is that one of the cell phones that you  
12 referenced earlier that Hubert Rushlough?

13          A     Rushlough.

14          Q     Rushlough brought you?

15          A     Correct, sir.

16          Q     Can you see the content of the message there?

17          A     It says from C which is Colin, lunch tomorrow,  
18 Big Guy's, BG.

19          Q     BG means?

20          A     Big Guy.

21          Q     What did the entire message mean, "lunch  
22 tomorrow bg"

23          A     It meant for Corey Spinner to be there at noon  
24 time, that he would bring the money.

25          Q     That Colin would bring the money?

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1 A Yes, sir.

2 Q To your knowledge did Colin ever bring Spinner  
3 the money?

4 A No, Spinner decided that he wasn't going.

5 Q At some point later, did you get any money  
6 from Colin?

7 A Yes, sir.

8 Q Can you describe -- well, first of all, when  
9 did that happen?

10 A I don't remember exactly what day it was. It  
11 was shortly after that this had fell through.

12 Q So this text message was on October 28th,  
13 2010, about how long after that do you think you received the  
14 money from Colin?

15 A My attorney has the specific date. And I'm  
16 sure you do. I don't want to tell you a date. I don't  
17 remember the date.

18 Q Was it weeks later, months later?

19 A It wasn't very long.

20 Q That's fine. Do you remember how you got the  
21 money?

22 A Yes.

23 Q Okay. Can you describe that, please?

24 A He contacted my son and gave him the money,  
25 give this to your father, he needs this for his lawyer.

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1 Q Who is your son, again?

2 A Mathieu Forget.

3 Q How did Mathieu give you the money?

4 A (No response.)

5 Q I'm sorry, was it in Canada or the United  
6 States?

7 A Yes, it was in Quebec.

8 Q Does your son live in Canada?

9 A Yes, sir.

10 Q Did you go see him at his house?

11 A Yes, sir.

12 MR. GARDNER: Your Honor, I'd like to show the  
13 witness what's been marked as Government Exhibit 23 for  
14 identification. Do you recognize that exhibit?

15 A Yes.

16 Q What is it?

17 A It's my son.

18 Q It's a photograph of Mathieu Forget?

19 A Yeah.

20 MR. GARDNER: The government would like to move  
21 this into evidence as Government Exhibit 23.

22 THE COURT: Any objection?

23 MR. SACCO: No objection.

24 THE COURT: Okay, it's received.

25 Q And how much money did Colin give to Matt to

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1 give to you?

2 A 40,000.

3 Q Did you bring that money back into the United  
4 States?

5 A Yes, sir.

6 Q How did you do that?

7 A Then again, I had somewhat briefed officer --  
8 Agent Hermes on bringing it and he said, no, don't do that  
9 and I just -- I kind of went on my own because I just wanted  
10 to make things right and keep up my word that I was going to  
11 give the government the money. So I had went over with a  
12 dump truck. I had some work done on a dump truck on the  
13 front springs and I tucked the money in -- I pulled the top  
14 down inside between the truck and I tucked a bag of money up  
15 in there.

16 Q Did you drive it back through the  
17 port-of-entry?

18 A Yes, sir, Trout River.

19 Q What did you do with the money once you got  
20 into the United States?

21 A Well, I got home and I took it out and I went  
22 to my lawyer's office I believe it was the next morning and  
23 I -- I said I need to see you and I walked in and I told him  
24 I said you need to call the agents and have them come here  
25 right away, please.

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1                   Q     And did you give the money to the DEA or did  
2 your lawyer do that?

3                   A     I gave it to my lawyer and he gave it over to  
4 them and I just signed the paper basically that they had  
5 received it.

6                   Q     I want to direct your attention to February of  
7 2011. Do you recall receiving additional text messages from  
8 Colin Stewart in February of 2011?

9                   A     Yes.

10                  Q     What is the general nature of these text  
11 messages?

12                  A     Well, we had spoken previously about bringing  
13 marijuana or some kind of illegal product to make money that  
14 he needed money and I needed money and I didn't have enough  
15 for my attorney and I just I -- I had to make that money to  
16 pay my attorney.

17                  Q     Is this your meeting that you referenced in  
18 the October-November 2010 time frame or did you go back and  
19 see Colin later?

20                  A     We had spoke about it then but we had talked  
21 about it afterwards, also.

22                  Q     In person or over the phone?

23                  A     In person.

24                  Q     So did you go back to Canada and meet with  
25 Colin?



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1           A     Yes, sir. That's when I had asked him how  
2 come that he would only give me that \$40,000 and he said that  
3 people above him were holding us accountable for the whole  
4 entire price of the marijuana and that we had to come up with  
5 it and that was it. He said I kind of had to keep them  
6 cooled off and I gave them some money.

7           Q     After that meeting with Colin, did you  
8 exchange text messages with him?

9           A     Yes, sir.

10          Q     Mr. Forget, can you please look at Government  
11 Exhibit 9B and tell me if you recognize it.

12          A     Yes, sir.

13          Q     And what is this?

14          A     It's from Cowboy, Colin.

15          Q     To who?

16          A     To myself, sorry.

17          Q     This looks like a different phone than we were  
18 looking at earlier. Is this still your phone?

19          A     Yes.

20          Q     I think you mentioned that Hubert brought  
21 multiple phones to you?

22          A     Yes.

23          Q     Can you go ahead and read the content of the  
24 message?

25          A     It says no, this is to pick up in SYRA, which

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1 would be Syracuse, back 2 BG, at Big Guy's, the defendant.

2 Q And the date of this text message was  
3 February 22nd?

4 A Correct.

5 Q Did you understand the content of this text  
6 message?

7 A Yes, whatever was being picked up had to be  
8 brought from Syracuse, New York back to Akwasasne.

9 Q When you originally received this text  
10 message, did you know what you were picking up in Syracuse or  
11 what Colin wanted you to pick up in Syracuse?

12 A Yes, sir.

13 Q What was that?

14 A He told me it was ten handguns.

15 Q Mr. Forget, go ahead and look at Government  
16 Exhibit 9C and, again, could you read the content of that  
17 text message.

18 A It says no. Because I had questioned him  
19 about marijuana and no meant for my question obviously that  
20 it was not for marijuana and it's those hand tools, which  
21 means -- which I kind of figured it was guns.

22 Q Now, did you communicate this information in  
23 these text messages to Special Agent Hermes?

24 A Absolutely.

25 Q We've only looked at a couple of text messages

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1 here, but did you receive others from Colin Stewart?

2 A Yes, sir.

3 Q Is it fair to say you received many from him?

4 A Yes, sir.

5 Q Did you provide those text messages to Special  
6 Agent Hermes?

7 A 100 percent.

8 Q How did you do that?

9 A I would meet with -- I would call him and tell  
10 him I've got -- I have to see you and we would meet up and we  
11 would take the text messages.

12 Q Are you aware of whether the DEA attempted to  
13 conduct this pick up in Syracuse?

14 A Yes, sir.

15 Q How were you aware of that?

16 A Through off -- sorry, through Agent Hermes.

17 Q Did you participate at all in the pickup or  
18 the operation?

19 A No, sir.

20 Q At some point did Special Agent Hermes tell  
21 you that the operation was successful in that they had, in  
22 fact, picked up guns in Syracuse?

23 A Yes, sir.

24 Q Mr. Forget, can you go ahead and take a look  
25 at Government Exhibit 9D.

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1 A Yes.

2 Q And if you can read that text message?

3 A It says gimme an ETA, estimated time of  
4 arrival, for BG, Big Guy, when you get it, I'm ready.

5 Q And what did that mean to you?

6 A That means he wanted to know what time that  
7 the guns were going to arrive at the defendant's mother's  
8 property and that he was ready to go and pick them up any  
9 time.

10 Q At some point after you received this text  
11 message, did you contact Stewart?

12 A Yes.

13 Q Did you contact Colin?

14 A Yes.

15 Q And what was the purpose of contacting Colin?

16 A Basically I had to go along with the way Agent  
17 Hermes said that the pickup was going to go and that I had to  
18 tell him that my driver was intercepted.

19 Q And I should have clarified. Did you call him  
20 by phone?

21 A I tried and he wouldn't answer and he wouldn't  
22 answer, because he did not and then I -- I started sending  
23 him nasty text messages like pick up your phone and he did.

24 Q So you finally spoke to him over the phone?

25 A Yes, sir.

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1           Q     And did you and Special Agent Hermes discuss  
2 what you would say to Colin?

3           A     Yes, sir.

4           Q     And just, generally speaking, what was it that  
5 you were supposed to say to Colin?

6           A     That my driver -- the pickup went fine,  
7 everything was good and that he left and he started noticing  
8 vehicles following him and that he -- he got pulled over and  
9 that they basically -- he gave hem a story that his uncle or  
10 something had passed away and that was his inheritance and  
11 his -- I think it was his aunt or something that gave him all  
12 the guns and that he had applied for a permit and the state  
13 police basically told him that if this all checks out, that  
14 you'll get your handguns back and you'll be fine.

15          Q     And did you actually communicate that to  
16 Colin?

17          A     (No response.)

18          Q     During the phone call?

19          A     Yes, I believe so, yes. Yes, I did.

20          Q     Mr. Forget, can you take a look at Government  
21 Exhibit 13 and let me know if you recognize that.

22          A     Yes, I do.

23          Q     And what is it?

24          A     It's a receipt for the guns that were  
25 confiscated.

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1 Q And how did you come into contact with this  
2 receipt?

3 A Agent Hermes gave it to me.

4 Q And why did he give it to you?

5 A Because I had to produce something to Colin  
6 because I was in over my head again.

7 Q You wanted to give this paperwork to Colin?

8 A Yes.

9 Q Did you suggest a way to do that to Special  
10 Agent Hermes or did you guys have a conversation about the  
11 best way to do that?

12 A I don't 100 percent recall if I had said that  
13 my driver -- yes, my driver had dropped -- he had texted me  
14 or talked to me that he was getting out of town and that  
15 he -- my wife found this in the mail box and gave it to me  
16 and I basically told Colin kind of rolled out the story that  
17 this was in my mail box and the guy's vanished, he left town.

18 Q All right. And I guess my question was: Did  
19 you and Special Agent Hermes discuss the best way to get this  
20 receipt, Government Exhibit 13 to Colin?

21 A Yes, sir.

22 Q What did you come up with?

23 A To get the defendant to bring it to him.

24 Q At some point did you contact the defendant by  
25 phone?

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1 A Yes, sir.

2 Q And what was the purpose of calling the  
3 defendant?

4 A To meet up with him to give him this receipt  
5 to get to Colin Stewart.

6 Q When you made that call, were you with Special  
7 Agent Hermes?

8 A Yes, sir.

9 Q During the call did you set up a meeting with  
10 the defendant?

11 A Yes, sir.

12 Q And where was that meeting supposed to take  
13 place?

14 A In Malone.

15 Q At anywhere in particular?

16 A I believe we had set on Burger King parking  
17 lot.

18 Q Prior to going to the meeting, did you meet  
19 with or were you already with Special Agent Hermes?

20 A Yes, sir.

21 Q Did Special Agent Hermes provide you with any  
22 type of recording equipment?

23 A Yes, sir.

24 Q Do you remember what that was?

25 A I don't remember if it was a lighter or -- a

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1 pen or a lighter. I don't -- I don't 100 percent remember,  
2 being truthful.

3 Q Is it fair to say that Special Agent Hermes  
4 gave you recording devices on several occasions?

5 A Yes, sir.

6 Q Did you have more than one recorded meeting  
7 with Corey Spinner?

8 A I believe so, yes, sir.

9 Q So you mentioned the meeting was at the  
10 Tractor Supply -- or at the Burger King, excuse me?

11 A Yes.

12 Q What type of vehicle were you driving that  
13 day?

14 A I think it might have been my wife's van.

15 Q Do you remember the color of that van?

16 A Green.

17 Q At some point did you go to the Burger King  
18 parking lot?

19 A Yes, sir.

20 Q And did you have a meeting with the defendant  
21 there?

22 A Yes, sir.

23 Q At the Burger King parking lot?

24 A It was either Burger King or Tractor Supply.  
25 I think it might have -- it might have been Tractor Supply.



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1 Yes, it was Tractor Supply.

2 Q And did you meet with the defendant?

3 A Yes, sir.

4 Q Where did that meeting take place?

5 A In the vehicle.

6 Q Whose vehicle?

7 A My vehicle.

8 MR. GARDNER: Your Honor, at this time the  
9 government would like to publish Government Exhibit 14, the  
10 recording of the meeting.

11 THE COURT: Okay.

12 Q Mr. Forget, I want you to listen to the  
13 meeting -- or listen to this conversation and at various  
14 times I'm going to pause the type and we'll talk about it.

15 A Yes, sir.

16 (Exhibit 14 played.)

17 Q Just real quick, Mr. Forget, do you recognize  
18 the voices on this recording?

19 A Yes, sir.

20 Q And who are the voices?

21 A Myself and the defendant.

22 (Exhibit 14 played.)

23 Q Mr. Forget, it's somewhat self-explanatory but  
24 did you have some kind of accident?

25 A Pretty bad one.

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1 Q What type of accident?

2 A Snowmobile.

3 (Exhibit 14 played.)

4 Q Mr. Forget, the defendant refers to the  
5 farmer. Do you know who he's talking about?

6 A Colin Stewart (farmer).

7 (Exhibit 14 played)

8 Q Mr. Forget, what are you talking about here?

9 A About the claiming?

10 Q Mm-mm.

11 A About the marijuana.

12 Q The marijuana that was seized?

13 A From September 15th.

14 Q 2010.

15 (Exhibit played.)

16 Q Mr. Forget, we just heard the defendant say,  
17 this is, this is his paper and you responded, yeah, that's  
18 paper for him.

19 Do you know what you and the defendant are  
20 discussing?

21 A The receipt for the weapons.

22 Q Government Exhibit 13 that we were looking at  
23 earlier?

24 A Yes, sir.

25 Q Did you give him that receipt?

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1 A Yes, sir.

2 Q And at the conclusion of the meeting, did the  
3 defendant take it with him?

4 A Yes, sir.

5 Q Is there anything else you gave the defendant  
6 that day?

7 A A phone.

8 Q A cell phone?

9 A Yes, sir.

10 Q And why did you give him that?

11 A So that he can give it to Colin or get it to  
12 Colin.

13 Q Okay.

14 (Exhibit played.)

15 Q Mr. Forget, why did you suggest taking the  
16 battery out of the phone?

17 A I was always just paranoia so they couldn't  
18 track it or something.

19 Q Mr. Forget, first of all, the defendant  
20 references Matt. Do you know who he's talking about?

21 A My son.

22 Q And he also states that everybody's done at my  
23 mother's.

24 Did you know what he meant by that?

25 A That nobody's going to go in and out of there

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1 any more whatsoever.

2 Q Mr. Forget, a little earlier in the  
3 conversation -- I'll withdraw that.

4 You just mentioned Hubert?

5 A Correct.

6 Q Who is Hubert?

7 A Hubert Rushlough.

8 Q Mr. Forget, do you know what the defendant's  
9 talking about when he's referencing King's and Adam's?

10 A Different marinas.

11 Q Where?

12 A On, on the reservation past his mother's  
13 property.

14 Q Marinas. So they're on a body of water?

15 A Yes, sir.

16 Q Are they on the St. Lawrence River?

17 A Yes, sir.

18 Q Why are you and the defendant talking about  
19 these marinas?

20 A Because there's other people moving marijuana  
21 and different things to those marinas.

22 Q Are they smuggling spots?

23 A Yes, sir.

24 (Exhibit played.)

25 Q Mr. Forget, the defendant for the second time

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1 referenced a dispatcher at tribal police. Do you know who  
2 that individual is that he's referencing?

3 A No.

4 Q Did you ever hear the defendant talk about a  
5 friend at the tribal police?

6 A Yes.

7 Q What did he say about that individual?

8 A Just that he knew somebody that was in the  
9 police, the law enforcement on the reservation.

10 Q Did the defendant indicate whether this  
11 individual was providing him information?

12 A Basically would tell him if he was being  
13 watched or if there was heat on the reservation.

14 (Exhibit played.)

15 Q Mr. Forget, do you know what the defendant's  
16 talking about in that last part of the conversation?

17 A Going to block off the canal coming into his  
18 mother's.

19 Q Which canal?

20 A The canal that comes off of the St. Lawrence  
21 river.

22 Q The one that you used to pick up loads of  
23 marijuana?

24 A Yes.

25 Q Mr. Forget, the defendant just referenced X.

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1 Do you know who he's talking about?

2 A Xavier Dauie.

3 Q Earlier in the conversation he used the name  
4 Xavier. Is he also referring to Xavier Dauie?

5 A Yes, sir.

6 Q And that's the individual you indicated often  
7 came down with Colin by boat transporting the marijuana  
8 loads?

9 A That's correct, sir.

10 (Exhibit played.)

11 THE COURT: Mr. Gardner.

12 MR. GARDNER: Yes, sir.

13 THE COURT: I think we're going to take a break.

14 MR. GARDNER: I have just two more questions, your  
15 Honor. I'm happy to break. Whatever you like.

16 THE COURT: All right. Finish your questions, then  
17 we're going to give the jury a break.

18 Q Mr. Forget, if you can take a look at  
19 Government Exhibit 12C. Do you recognize that, that  
20 photograph?

21 A Yes, sir.

22 Q What that a photograph of?

23 A My wife's van with myself and the defendant  
24 sitting in there.

25 Q And, Mr. Forget, please look at Government

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1 Exhibit 12B. Do you recognize this photograph?

2 A Yes, sir.

3 Q And what is it?

4 A The defendant.

5 MR. GARDNER: If I can just have one moment, your  
6 Honor.

7 THE COURT: Sure.

8 (Discussion held off the record.)

9 MR. GARDNER: That's all the questions the  
10 government has, your Honor.

11 THE COURT: Very well.

12 Ladies and gentlemen, we're going to take about a  
13 ten-minute break, mid-morning break get up and stretch.  
14 Please don't talk about the case and we'll have you back out  
15 here in just a few minutes. Thank you.

16 (Jury excused, 10:55 a.m.)

17 THE COURT: Okay, let's look to start about five  
18 after, okay.

19 MR. SACCO: Yes, sir.

20 MR. GARDNER: Yes, sir.

21 THE CLERK: Clerk court's in recess.

22 (Recess taken, 10:55 a.m.)

23 (Open court, 11:08 a.m.)

24 THE COURT: Mr. Sacco, you ready?

25 MR. SACCO: Ready, Judge.

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1 THE COURT: Okay, bring them in.

2 (Jury present, 11:08 a.m.)

3 THE COURT: Okay. The record should reflect we  
4 have the ladies and gentlemen of the jury looking refreshed  
5 and perky and we're going to move on to cross-examination by  
6 Mr. Sacco.

7 Go ahead, sir.

8 MR. SACCO: Thank you, Judge.

9 CROSS-EXAMINATION BY MR. SACCO:

10 Q Morning sir.

11 A Good morning, sir.

12 Q Mr. Forget, you testified on your direct  
13 examination that you started working with Colin Stewart in  
14 2008 or 2009?

15 A It was around '08.

16 Q And when did you recruit Corey Spinner to  
17 start working for you or for Mr. Stewart?

18 A Pretty much in 2008, as well.

19 Q And you initially stated your initial role was  
20 as a blocker, right?

21 A Yes, a scouter.

22 Q Scouter, blocker. So who recruited you for  
23 that role as a scouter or scout?

24 A Colin Stewart and Stefan Trepanier.

25 Q And you met Colin Stewart through your son,



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1 right?

2 A Correct.

3 Q And your son is friends with Colin Stewart, is  
4 that fair to say?

5 A He's friends with his younger brother.

6 Q How old's Colin Stewart? I couldn't tell by  
7 the photograph.

8 A He's younger than me. I'm not sure. He's got  
9 to be in his mid-, late 30s.

10 Q And how old's your son?

11 A 28.

12 Q Do you know how old Colin Stewart's younger  
13 brother is?

14 A My son's age.

15 Q Around 28. So how exactly did it happen? Did  
16 Colin Stewart just come up to you and say I need your help  
17 or?

18 A No, he knew through -- he knew that I lived in  
19 the U.S. and he approached my son to have him get a hold of  
20 me to come to Quebec to talk to him because Colin does not go  
21 into the U.S.

22 Q So he'll just take the boat as far as the St.  
23 Lawrence?

24 A Correct.

25 Q And then go back up?

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1 A Yes, sir.

2 Q And obviously you agreed to assist him in his  
3 enterprise, right?

4 A Correct.

5 Q Now -- and you and Colin had an agreement that  
6 you would be paid for it, right?

7 A Correct.

8 Q And was that based on the weight of the  
9 shipment of marijuana or?

10 A Scouting was -- scouting they started me at a  
11 thousand dollars to scout and I took it. I mean it's --

12 Q It was a flat rate?

13 A Yes, sir.

14 Q So the first time, do you remember when your  
15 first scouting mission was?

16 A To the pinpoint date, not really. But it was  
17 scouting out of there -- the defendant's mother's property to  
18 the King's residence.

19 Q And that was the first time you did it and you  
20 got a thousand dollars?

21 A Yes, sir.

22 Q Now at what point did you need Corey Spinner's  
23 help in this activity?

24 A They wanted more, more -- more eyes. They  
25 said the better the more eyes. And I told them, I said I

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1 know a guy that would do it. I knew he was working elsewhere  
2 and whatnot, also, and so I asked him and he said sure.

3 Q What do you mean working?

4 A Scouting for other people.

5 Q That's Corey Spinner?

6 A Yes, sir.

7 Q So he had experience?

8 A Yes, sir.

9 Q And you approached Corey Spinner or Corey  
10 Spinner approached you?

11 A No, I approached him.

12 Q And did you pay him or did Colin Stewart pay  
13 him?

14 A I did.

15 Q So you were -- were you, for lack of a better  
16 term, a supervisor over Spinner?

17 A Just the middle man.

18 Q So you recruited Corey Spinner and he also  
19 agreed to do this, right?

20 A Yes, sir.

21 Q And that was early on in your participation in  
22 the organization?

23 A Yes, sir.

24 Q So that would put us at somewhere in the time  
25 frame of 2008 to 2009; is that right?

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1 A Correct.

2 Q Was it typical that and you Mr. Spinner would  
3 work together on these scouting missions?

4 A Yes.

5 Q Okay. And just so that we have a time frame  
6 here, if you started somewhere in 2008 to 2009, when were you  
7 ultimately arrested and started working with the DEA?

8 A 2010.

9 Q All right. So, that period of time is between  
10 a year, two years, year and a half to two years, is that what  
11 we're talking about?

12 A That's about right, sir.

13 Q And from 2010 after your arrest until today,  
14 you haven't engaged in any of this transporting of marijuana  
15 activity, is that correct?

16 A None whatsoever.

17 Q So, now, your relationship with Corey Spinner,  
18 do you know him?

19 A Yes, sir.

20 Q Outside of your activity as a scout, do you  
21 know him?

22 A Yes, sir.

23 Q And what's your relationship with him?

24 A We were friends. I met him through my wife.  
25 My wife went to school with him.

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1 Q And did you go to his house for dinner or did  
2 you do anything significant with him?

3 A We've done -- we've done different things  
4 together, snowmobiling, go out to eat, motorcycle rides.

5 Q Okay.

6 A He was a friend, an acquaintance.

7 Q And were your wives friends?

8 A (No response.)

9 Q His wife?

10 A When he had the same girlfriend, I guess, if  
11 they knew each other, they'd --

12 Q So he's not married?

13 A No, he's not married.

14 Q And did he go to your wedding?

15 A Yes, sir.

16 Q Now, I want to talk a little bit about -- you  
17 mentioned on your direct examination that you had marijuana  
18 and cocaine use in your past, is that fair to say?

19 A Yes, sir.

20 Q Now, we're really focused here on 2008 and '9  
21 and your arrest?

22 A Yes, sir.

23 Q Now, during that period of time, what was your  
24 drug use? What were your habits during that period of time?

25 A I had had cocaine, use of cocaine a few times

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1 before, but my main habit was marijuana.

2 Q During the time that you were transporting  
3 marijuana for this organization, your main habit was  
4 marijuana, is that what I understand you to say?

5 A Absolutely.

6 Q What about cocaine, were you using cocaine  
7 during that period of time?

8 A No, sir.

9 Q When you say using marijuana, is it a  
10 significant amount, were you smoking it constantly or every  
11 day or what was your use?

12 A Every day and when I would leave the  
13 defendant's property, I would -- they would always be smoking  
14 there, Colin and the guys that came over from Canada. And it  
15 just kind of like I was -- I was so nervous that it kind of  
16 helped take the edge off so I did before I left.

17 Q And did there come a time after you were  
18 arrested did you stop smoking or were you still smoking when  
19 you were working with the DEA?

20 A No, yesterday also -- I was asked a question  
21 yesterday, I was so nervous that I kind of like -- I think I  
22 answered something wrong -- wrongfully.

23 From my arrest in 2010, I -- I had to report  
24 for drug, random testing and with my occupation, I'm in a  
25 random drug test, also. I did not smoke or use drugs. I

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1 drank alcohol but before my arrest I was definitely a heavy  
2 marijuana smoker.

3 Q So you were following the rules --

4 A Absolutely.

5 Q -- of your release?

6 A One hundred percent.

7 Q Of your agreement with the government?

8 A Yes, sir.

9 Q Where did you get your -- I'll withdraw that.

10 A I've never failed a drug test or a random drug  
11 test for my business, not whatsoever.

12 Q You have your a CDL driver?

13 A Yes, sir, tractor-trailer and I'm not out  
14 there to hurt anyone or get in an accident and be pulled away  
15 because I had drugs in my system, by all means.

16 Q You want to be safe on the reads, right,  
17 obviously there's other people on the roads?

18 A 100 percent. I know there's mothers, fathers  
19 and children out there and I'm a father myself. I made a  
20 mistake September 15th, and ...

21 Q All right. Now, your employment, you have a  
22 business -- some sort of excavating business or trucking  
23 business?

24 A Trucking, sir.

25 Q You drive, what, 18-wheelers or dump trucks?

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1 A Both.

2 Q You own on those?

3 A Yes, sir.

4 Q How many 18-wheelers do you own?

5 A Two.

6 Q You said you lived in Malone, New York, right?

7 A That's correct, sir.

8 Q And you're originally -- were you born in the

9 United States or are you --

10 A Yes, sir.

11 Q -- Canadian?

12 A I was born in Malone.

13 Q But you have dual citizenship?

14 A That's correct. My mother and father are  
15 Canadian citizens.

16 Q So you were familiar with Quebec and the  
17 Canadian side; is that right?

18 A That's correct.

19 Q Which made you an asset to Colin Stewart; is  
20 that right?

21 A Exactly.

22 Q In fact, you mentioned that you would go see  
23 him in -- I forget the name -- Elgin?

24 A Elgin.

25 Q Elgin, that's where he lives?



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1 A Yes, sir.

2 Q Are you from that town originally, your  
3 parents from that town?

4 A My mother's from Huntington area.

5 Q Is that near Elgin?

6 A Yes.

7 Q Now you mentioned that when you would go to  
8 the canal site there near Mrs. Peters's residence, would  
9 Corey Spinner start there with you to scout?

10 A Yes, sir.

11 Q So you would both have your whatever -- truck  
12 or car or whatever you were going to use, you would go there  
13 together to start the operation, right?

14 A Correct.

15 Q Now, aside from your drug use that you've  
16 talked about in your direct examination, Mr. Gardner asked  
17 you a question regarding your previous criminal history. Do  
18 you remember that?

19 A Yes, sir.

20 Q Is it fair to say that you have numerous  
21 convictions over a significant period of time in both Canada  
22 and the U.S. dealing with the smuggling of drugs and tobacco?

23 A I wouldn't say it's fair to say in the U.S.  
24 but I would say in Canada I've had tobacco and cigarettes,  
25 yes.

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1 Q On numerous occasions, right?

2 A Several occasions in Quebec.

3 Q Prior to your working for Colin Stewart, did  
4 you know him?

5 A No, sir. I knew of him, never met him.

6 Q What about Mr. Trepanier?

7 A I knew Mr. Trepanier from living in  
8 Saint-Anicet area.

9 Q Prior to 2008-2009, how long had you known  
10 Mr. Trepanier?

11 A Maybe ten years, but never associated but I  
12 knew who he was, knew of him. If I'd see him, I'd say hello  
13 and basically the same thing. We never had any communicating  
14 relationship.

15 Q For instance, did you know each other's names?

16 A Yes.

17 Q Or did you know his name?

18 A Yes.

19 Q All right. Sir, I want to get into your  
20 agreement with the government now. On September 15th,  
21 2010 --

22 A Ten.

23 Q -- you made an agreement with the Drug  
24 Enforcement Agency, right?

25 A Yes, sir.

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1 Q And that agreement was that you would provide  
2 them information and work with them, correct?

3 A Correct, sir.

4 Q And you understood that the level of your  
5 cooperation and the quality of your cooperation would dictate  
6 how well your case ended up, is that fair to say?

7 A Yes, sir.

8 Q And that was made clear to you?

9 A Yes, sir.

10 Q And that you were -- you also understood that  
11 you were going to be asked to do things and gather  
12 information for them, correct?

13 A Yes, sir.

14 Q And that you set about doing that?

15 A Yes, sir.

16 Q So, in September of 2010, you testified that  
17 you started -- you identified Corey Spinner as the person  
18 that was working with you, right?

19 A Correct.

20 Q And you met with Mr. Spinner?

21 A Yes, sir.

22 Q And you taped -- did you tape him during  
23 meetings?

24 A Yes, sir.

25 Q Did you place the GPS device on his car or did

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1 the government, did someone else do it?

2 A Someone else did it.

3 Q So you then met with Mr. Spinner and you were  
4 trying to get him to go pick up the money for you, right?

5 A Correct.

6 Q And the money was supposed to be coming from  
7 Colin Stewart?

8 A Yes, sir.

9 Q And in order to convince Mr. Stewart to do  
10 this, you had to come up with a story, a cover story, right?

11 A That's right.

12 Q And it had to be an elaborate cover story for  
13 you to convince him to do that, is that fair to say?

14 A Correct.

15 Q And did Mr. Stewart -- or, sorry, did  
16 Mr. Spinner, did he go and attempt to pick up the proceeds  
17 for you the money?

18 A I believe not. He just -- what he told me is  
19 that he felt paranoid and that he started looking over his  
20 truck and he found a GPS.

21 Q So he never went to the canal, as far as you  
22 know --

23 A No, sir.

24 Q -- to pick up the money? If you know, was  
25 Colin Stewart waiting there for him with a big duffel bag

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1 full of money, he was supposed to be there?

2 A I don't believe -- I can't answer that. I  
3 don't know if he was there.

4 Q Let me ask you this: Did Colin Stewart text  
5 you and say where's your guy, I'm here, I'm waiting, I'm in  
6 the boat?

7 A I can't recall that, sir.

8 Q Because the plan was for Colin Stewart to come  
9 in and meet Corey Spinner, right?

10 A Yes, sir. I believe, if anything, I might  
11 have reached out to him and told him that he wasn't going,  
12 that he had -- that we had to sort out another plan, if  
13 anything.

14 Q But are you just guessing or do you know?

15 A I'm not 100 percent sure. This is what I  
16 would have done in a normal situation is what I'm saying.

17 Q I'm not interested in what you would have done  
18 in a normal situation. I'm interested in what you did.

19 A That's fine.

20 Q So Corey Spinner eventually was also arrested,  
21 right?

22 A Yes, sir.

23 Q Are you aware of that?

24 A Yes, sir.

25 Q And he also began working for the Drug

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1 Enforcement Administration, correct?

2 A Yes, sir.

3 Q And you were aware of that?

4 A Yes, sir.

5 Q And he was aware that you were working for  
6 them, right?

7 A Yes, sir.

8 Q And they were aware of that, you were both  
9 aware of that because you had discussions about that, right?

10 A Yes, sir.

11 Q And just so the jury knows, what kind of --  
12 what would you talk about with respect to your cooperation?

13 A I didn't talk about my cooperation with him.

14 Q How did he know you were cooperating?

15 A He assumed that I was because of the GPS on  
16 his truck after we had spoke and they found the GPS on his  
17 truck. So he assumed that I was working setting him up.

18 Q And did you, did he -- okay. When that  
19 happened, did he confront you on that?

20 A Yes, sir.

21 Q And what did you -- did you tell him, he was a  
22 rat?

23 A I basically told him, they must be watching  
24 you, why are you thinking they're watching me. I was trying  
25 to basically say that it wasn't coming from me.

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1           Q     But nonetheless, you both knew you both were  
2 working as informants?

3           A     He assumed I was and I assumed he was. Never  
4 specifically admitted to it.

5           Q     All right. And ultimately, you pled guilty in  
6 federal court, right?

7           A     Yes, sir.

8           Q     For your role?

9           A     Yes, sir.

10          Q     And you pled guilty to possessing a hundred  
11 kilograms, right?

12          A     Correct.

13          Q     Which is about 200 pounds?

14          A     Correct.

15          Q     And were you originally charged with something  
16 greater than that or was that the plea agreement?

17          A     That was what I was charged with.

18          Q     Because here in court, you have testified that  
19 you possessed more than a hundred kilograms on any given day  
20 you were some smuggling, right?

21          A     Can you repeat that, sir.

22          Q     Sure. In court you've testified that you had  
23 smuggled much more than a hundred kilograms, haven't you?

24          A     Through the time, yes.

25          Q     And what you pled guilty to was conspiracy to

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1 distribute just a hundred kilograms; is that right?

2 A Correct.

3 Q And it's your understanding that your  
4 potential penalty for this amount is a minimum of 5 years,  
5 right?

6 A Correct.

7 Q And a maximum of 40 years --

8 A Yes, sir.

9 Q -- right? And you also testified -- and I  
10 believe it's in evidence -- that the government has rescinded  
11 their agreement with you, right?

12 A Yes, sir.

13 Q Because initially they had agreed that if you  
14 would cooperate with them, that they would make a motion to  
15 the court that you get less than five years, right?

16 A That's correct.

17 Q That was the original plan?

18 A It was the hope.

19 Q Well, that was why you were cooperating,  
20 correct?

21 A That was, yes.

22 Q I mean, you weren't cooperating for fun, were  
23 you?

24 A No, sir.

25 Q You were cooperating because you wanted a



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1 benefit, right?

2 A Yes, sir.

3 Q And just recently in January of this year, the  
4 government gave you a letter and they said that they are no  
5 longer going to honor the agreement that you had, right?

6 A Yes, sir.

7 Q And that they will not make a motion to the  
8 court that you get under five years, is that right?

9 A That's correct.

10 Q And the reason that they are not going to  
11 honor their agreement -- and listen closely, please -- is  
12 because you were arrested for possessing certain firearms,  
13 right?

14 A On the advice of my attorney, I decline to  
15 answer that question that it may incriminate me.

16 THE COURT: Well, I want you to listen carefully to  
17 his question, Mr. Forget. He's not asking if you committed a  
18 crime. He's asking you if you were arrested for a certain  
19 crime and that I believe you can answer.

20 THE WITNESS: Yes, sir.

21 THE COURT: So ask the question again.

22 And you listen carefully and then you can decide  
23 whether you want to or if you need to exercise your Fifth  
24 Amendment right. I don't believe that you do under this  
25 circumstance, but listen carefully.

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1           Q     I'm only -- and I'll go slow, Judge, if I can,  
2 do it piece by piece.

3                     I want to ask you not about any underlying  
4 facts, okay, I don't want to ask you anything like that.

5           A     Yes, sir.

6           Q     Mr. Gardner on his direct examination asked  
7 you if you were arrested and charged with certain gun  
8 offenses, do you recall that?

9           A     A gun offense, yes, sir.

10          Q     And specifically -- and it's in the record --  
11 he asked you simply if you had been arrested and charged with  
12 I believe it was seven gun offenses?

13          A     No. It was, but -- I was arrested.

14          Q     Okay. And you were charged, right?

15          A     Yes.

16          Q     And after you were arrested and charged, the  
17 government sent you a letter and said they would no longer  
18 honor their agreement with you, is that fair to say?

19          A     Unfortunately, yes.

20          Q     And, however, they are not going to void the  
21 entire agreement, are they?

22          A     To my understanding, yes, it is.

23          Q     Well, they're not going to recommend to the  
24 judge you get under five years, right?

25          A     No.

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1 Q So, are they going to prosecute you for -- are  
2 they going to withdraw the whole plea agreement?

3 A I believe they have.

4 Q So are you back to square one?

5 A It seems that way, sir.

6 Q But you're still going to be sentenced, right?

7 A Yes, sir.

8 Q They're just not going to make a  
9 recommendation that you be sentenced under five years?

10 A That's my understanding, sir.

11 Q Are they going to bring any other charges  
12 against you?

13 A I don't believe so.

14 Q For this crime that you were arrested for,  
15 where are you being charged, in what court, is it federal  
16 court, is it state court, where are those charges actually  
17 pending?

18 A Do I have to answer this?

19 THE COURT: Counsel, why don't you come up here.

20 MR. SACCO: Yeah.

21 (Held at side bar:)

22 THE COURT: Mr. Sacco, we're in an area that's a  
23 little touchy. I agree with you that this is a question he  
24 can answer but I'm interested in what's the relevance of what  
25 court. Why do we need to know that? Why is it important for

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1 your cross-examination.

2 MR. SACCO: Because I believe, Judge, it's his hope  
3 that how well he does -- I mean, he obviously still is here  
4 trying to get a benefit, whether they're going to give it to  
5 him or not, and he's got an open case and it's his hope that,  
6 you know, the better he does here, it will help and I'll ask  
7 him this, better he does, it will help him.

8 THE COURT: Then ask him that.

9 MR. SACCO: Okay.

10 THE COURT: I don't think where --

11 MR. SACCO: It's pending matters.

12 THE COURT: -- where it's pending matters. Just  
13 say are you hoping to get some benefit with regard to that  
14 case.

15 MR. SACCO: Okay.

16 THE COURT: Just ask him straight out I think would  
17 be more appropriate. He's obviously very nervous about being  
18 questioned about that arrest because it's still pending.

19 MR. SACCO: All right. I'll clean it up.

20 THE COURT: Thank you.

21 (Open court:)

22 THE COURT: Okay, Mr. Sacco, when you're ready,  
23 sir.

24 MR. SACCO: Okay, thank you, judge.

25 Q Mr. Forget, is it fair to say that you hope by

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1 your testimony here in this court that you hope to get some  
2 sort of benefit down the line, right, that's your hope?

3 A That would be my hope, but it doesn't mean  
4 it's going to happen.

5 Q I understand that, but that's your motivation  
6 for testifying, right?

7 A I made an agreement with the government, and  
8 I'm sticking to it.

9 Q Now, I want to talk about the -- what led up  
10 to your arrest on September 15th, 2010, okay. Now you've  
11 testified in this court that you picked up a load of  
12 marijuana and you were very nervous about it, right?

13 A Yes, sir.

14 Q And you picked it up on this little canal  
15 outside of Maria Peters's property and who was there for the  
16 pickup, Colin Stewart?

17 A Yes, sir.

18 Q Was Trepanier there, too?

19 A No, they weren't working together any more at  
20 that time.

21 Q This is in 2010, right?

22 A Yes, sir.

23 Q My client wasn't there?

24 A No, sir.

25 Q And Corey Spinner had canceled on you, right?

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1 A Yes, sir.

2 Q So you were going on at this all by yourself?

3 A Yes, sir.

4 Q And it was just you and Colin Stewart, right,  
5 he dropped it off?

6 A Him with Xavier.

7 Q Okay, X-man was there. And you load it into  
8 your truck, right?

9 A We all did.

10 Q Were you smoking marijuana cigarettes when you  
11 were at the canal side there or no?

12 A Yeah, I was shaking like a leaf. I didn't  
13 want to do it and he told me that it had to be done, whether  
14 you like it or not you're going to do it, it's got to go and  
15 that's all there is to it.

16 Q How old are you, how old were you at the time?

17 A 39.

18 Q At the time, so what are you, 40?

19 A 43.

20 Q Forty-three now. So you're there and you're  
21 smoking marijuana, right?

22 A Yes, sir.

23 Q Trying to get ready for this trip?

24 A Trying to.

25 Q And you're almost out of gas, right?

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1 A Yes, sir.

2 Q So you start driving and you see the border  
3 patrol -- I'm sorry, you see the Mohawk police, right?

4 A Yes, sir.

5 Q And you panicked, right?

6 A Yes, sir.

7 Q When you say you panicked, you had a choice to  
8 make, you could stop, right?

9 A Yes, sir.

10 Q And not go on a high speed chase or you can go  
11 on a high speed chase, those were your choices, right?

12 A Yes, sir.

13 Q And you chose to flee, right?

14 A Yes, sir.

15 Q So you start going down 37, I believe  
16 eastbound, is that fair to say?

17 A I believe so.

18 Q And you went on this high speed chase. What  
19 is the maximum rate of speed you reached, were you looking at  
20 your speedometer?

21 A No, sir.

22 Q Well over a hundred, is that fair to say?

23 A I was a hundred miles an hour plus at times.

24 Q As fast as your truck would go, right?

25 A I guess, yes.

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1 Q And when you did this, were you passing cars?

2 A At times.

3 Q And did you run red lights and blinking yellow  
4 lights and all that sort of thing?

5 A There was no red lights where I was at.

6 Q So you didn't pass any signals, as far as you  
7 remember?

8 A No, no yellow stop signs -- no yellow lights  
9 or traffic lights the route I went.

10 Q And you were high on marijuana at this time  
11 also, right?

12 A Yes, sir.

13 Q Which would have some, okay. So as you, how  
14 long did this chase last, if you remember?

15 A I don't remember. Twenty minutes maybe.

16 Q And at different times did you -- you evaded  
17 the police and then they would catch up to you essentially,  
18 is that how it was working out for you?

19 A Yes, sir.

20 Q And then at some point you decided you were  
21 running out of gas, right?

22 A Yes, sir.

23 Q And your choices were to pull over and wait  
24 for the police to catch up to you, correct?

25 A Correct.



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1                   Q     Or find some sort of way to get out of the  
2 situation you were in, right?

3                   A     My plan was to try and get enough distance to  
4 find somewhere to actually ditch it, to not have it in my  
5 truck whatsoever because I had been told before that if I got  
6 caught, I would have some serious consequences with them.

7                   Q     Okay. Still, I mean, you're 39 years old,  
8 right, at the time?

9                   A     (Nodding affirmatively.)

10                  Q     And you had a choice to make, right?

11                  A     Yes, sir.

12                  Q     And when you got to the intersection and I  
13 don't know what the roads are, you decided that instead of  
14 pulling over, that you would drive behind someone's house  
15 over their lawn and drive into the woods, right?

16                  A     It's not exactly what I planned on, but that's  
17 the way it happened.

18                  Q     Well, because you saw, you had an opportunity?

19                  A     Saw a driveway, I tried hiding behind the  
20 house in the barn.

21                  Q     Because that was an opportunity for you to  
22 evade the police?

23                  A     Correct.

24                  Q     And that was someone's house but you had to do  
25 what you had to do, right?

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1 A Yes, sir.

2 Q So you drove past their house, over their lawn  
3 and was there anyone in the backyard or was there --

4 A No.

5 Q Was it a -- it was a house, though, right?

6 A It was an old house. I didn't even know if it  
7 was vacant it was that old.

8 Q But, again, you're high and you're running  
9 from the police, right?

10 A Yes, but I won't doing a hundred miles an hour  
11 through their yard, if that's what you're getting at.

12 Q I'm not. I'm not. But, in any event, that  
13 was your choice to do that, right?

14 A That was my last window that I could see.

15 Q To get away?

16 A Correct.

17 Q To get out from under the responsibility of  
18 what you had in the back of the truck, right?

19 A Correct.

20 Q So you drive behind this house, did you see  
21 any people in the way of you or did anybody?

22 A No vehicles in the yard whatsoever, no people,  
23 no animals, nothing.

24 Q Okay. So you drove the truck into the bushes  
25 and that was to conceal the truck the best you could, right?

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1 A Yes.

2 Q Under the circumstances?

3 A Yes.

4 Q And you got out of the truck, right?

5 A Yes, sir.

6 Q And you locked it, right, did you hit the  
7 button to lock it?

8 A I believe I did.

9 Q So you were thinking at least in that, you  
10 know, it was a lot of stress going on but you had the  
11 wherewithal to think to lock your truck before you left it,  
12 right?

13 A Yes, sir.

14 Q And then you hid the keys somewhere, didn't  
15 you?

16 A Yes, sir.

17 Q Because why did you do that?

18 A Out of panic.

19 Q Well, you did that because you --

20 A I didn't want them on me.

21 Q Because that's evidence that you were driving  
22 the truck, right?

23 A Right.

24 Q But you took the time to think that through at  
25 this moment, right?

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1 A Yes, sir.

2 Q And you hid the keys. Where did you hide the  
3 keys?

4 A Under a truck.

5 Q Under a truck?

6 A Mm-mm, yes, sir.

7 Q The truck you drove in there or a different  
8 truck?

9 A No, different truck.

10 Q Was it a junk truck or?

11 A It was just an old truck parked in the field  
12 where I was running through.

13 Q So you hid the keys and you took off running  
14 through the woods, right?

15 A No, I took off running through the woods,  
16 through the swamp, marsh, woods again and then I came out  
17 into the field and that's where I could hear the officers and  
18 I could hear a dog coming and there was cars all over the  
19 place and I ran to this truck that I saw and I hid underneath  
20 it and that's where I hid my keys.

21 Q And the plan was to get to the river, you said  
22 on your direct examination, right?

23 A Yes, sir.

24 Q And that was because, what, you heard dogs in  
25 the woods?

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1 A Correct.

2 Q And how far do you figure you traveled through  
3 the woods in total, if you know?

4 A I'm sure it was well over a mile, I believe.

5 Q And then your last attempt to conceal yourself  
6 was to hide under the truck?

7 A Yes.

8 Q You weren't running to the police to give  
9 yourself up, were you?

10 A No, sir.

11 Q And as you were laying underneath the truck,  
12 you thought to yourself what else can I do to distance myself  
13 from the truck, right?

14 A I pretty much at that point figured that I was  
15 done for. The dog was going to sniff me out, which he did.

16 Q Isn't that at the point that you hid the keys  
17 when you were underneath the truck?

18 A Yes.

19 Q So when you were laying under the truck you  
20 didn't want to get caught with the keys because the keys  
21 would connect you to the truck, right?

22 A I didn't want to get caught, period.

23 Q In terms of why you hid the keys, you hid the  
24 keys because you didn't want to get caught with them, right?

25 A They were still on me and I took them out when

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1 I saw them coming, didn't want them on me.

2 Q So you weren't connected to the truck, right?

3 A Yes, sir.

4 Q So you were thinking this whole time -- as  
5 your options got less and less you were thinking, how do I  
6 minimize my situation, right?

7 A Thinking in a frightened way, I guess you  
8 could say.

9 Q You're frightened now, too, right?

10 A I'm nervous.

11 Q Now, when you were released from, when you  
12 pled guilty in federal court, you were released under  
13 conditions, right?

14 A Yes, sir.

15 Q And they were -- you were being monitored by a  
16 probation officer, right?

17 A Yes, sir.

18 Q And you breached those conditions, didn't you?

19 A Just recently.

20 Q This event we talked about with the high speed  
21 chase -- I'll withdraw that.

22 Now, you said earlier that you had a number of  
23 situations, prior situations in Canada for tobacco smuggling,  
24 right?

25 A Yes, sir.

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1                   Q     Now, isn't it true that you -- that Mr. Peters  
2 would sell tobacco?

3                   A     Yes, sir.

4                   Q     And a lot of tobacco, right?

5                   A     Yes, sir.

6                   Q     And at one point you said, you said in your  
7 grand jury testimony that he has on his property trailers  
8 full of tobacco, right?

9                   A     Yes, sir.

10                  Q     And you've seen those, right?

11                  A     Yes, sir.

12                  Q     So you know that he often sells tobacco,  
13 cigarettes basically, and loose tobacco sometimes, right?

14                  A     Correct.

15                  Q     And the sale of tobacco, as you discussed with  
16 Mr. Peters in your recorded conversation, can be lucrative,  
17 can't it?

18                  A     (No response.)

19                  Q     \$290 a pound?

20                  A     I'm not aware of the tobacco prices, if -- any  
21 more of any of that sort.

22                  Q     Okay. Well, you were talking to him on that  
23 call about tobacco, weren't you? You heard him?

24                  A     Right, correct. He said he was moving  
25 cigarettes and people were calling him for tobacco.

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1 Q And you used to smuggle tobacco yourself?

2 A Right.

3 Q And it's a lucrative trade, isn't it?

4 A Lucrative, I'm sorry, I don't --

5 Q Could you make money at it?

6 A Sometimes you can and other times it can be  
7 rough, rough deals, but you can make money at it, I guess.

8 Q And on the reservation, there's tobacco,  
9 people making cigarettes on the reservation, right?

10 A Yes, sir.

11 Q You're aware of that?

12 A Yes, sir.

13 Q Now, you worked with Colin Stewart, I don't  
14 know, approximately two years, right?

15 A Yes, sir.

16 Q And you would be in pretty regular  
17 communication with Colin Stewart during this two-year period?

18 A For the most part.

19 Q I mean, you were his main person that would  
20 either block in the beginning or at the end, you were  
21 essentially responsible for his shipments, right, on the U.S.  
22 side?

23 A I was the middle man.

24 Q Well, didn't you testify in your direct that  
25 all of Colin Stewart's marijuana ended up at your personal



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1 residence?

2 A Not all.

3 Q The majority of it?

4 A A lot of it.

5 Q Okay. So you were his main U.S. transporter,  
6 is that fair to say?

7 A I don't know how to answer that question. I  
8 guess there were other people involved in the  
9 transportating -- in the transportation, so I wouldn't call  
10 myself the main transporter.

11 Q You were paying the folks that were taking  
12 this marijuana down to its final destination, right?

13 A Correct.

14 Q Colin was giving you the money to pay them,  
15 right?

16 A Correct.

17 Q And Colin -- all of the marijuana coming over  
18 here from Colin Stewart was ending up at your house, is that  
19 fair to say -- or virtually all of it?

20 A A majority of it.

21 Q Sir, isn't it true that Allan Peters was never  
22 at that unloading and the canal and all that when you guys --  
23 when you were doing this with Colin and with Corey Spinner?  
24 He wasn't there. He wasn't there unloading the marijuana and  
25 talking with Colin Stewart, isn't that true?

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1 A No.

2 Q But you and Corey Spinner were there majority  
3 of the time, right?

4 A (No response.)

5 Q You and Corey Spinner would be unloading the  
6 vessel, whatever it is the boat, right?

7 A Correct.

8 Q Colin Stewart would be helping or he'd be in  
9 the boat with X-man, right?

10 A Correct.

11 Q And Allan Peters was never there, was he?

12 A Yes, he was there.

13 Q With you and Corey?

14 A Yes.

15 Q Okay. Now, you wore a recorder, right, for  
16 the drug enforcement agency?

17 A Yes.

18 Q And we've heard that call in this court,  
19 right?

20 A Yes, sir.

21 Q Now, when you decided to call up Mr. Peters,  
22 you first had to come up with an elaborate story to tell him,  
23 right?

24 A Correct.

25 Q And you had to formulate that in your head,

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1 correct?

2 A No, because I was with Agent Hermes.

3 Q Well, you had to convince another human being  
4 of something that didn't actually exist and wasn't actually  
5 true, right?

6 A Correct.

7 Q So you had to think about how to do that,  
8 didn't you?

9 A He was the brains.

10 Q Who was, Agent Hermes?

11 A Agent Hermes, it went the way he wanted it to  
12 go.

13 Q At the end of the day you still had to  
14 convince another human being of something that wasn't true,  
15 isn't that fair to say?

16 A I did what I was told to do.

17 Q So you met, you called up Mr. Peters and you  
18 said meet me, right?

19 A Yes, sir.

20 Q And you had your story, right?

21 A Yes, sir.

22 Q And you relayed that to him in graph -- in  
23 detail, right?

24 A Yes, sir.

25 Q And as we listen to the call, the majority of

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1 the call is your words. If we added up all the words,  
2 probably a high percentage of the call are your words -- not  
3 the call -- a high percentage of the conversation is you  
4 talking to him, right?

5 A Yes, sir, I was told to basically just be cool  
6 about it and just small talk and then talk about the plan to  
7 get the paperwork to Canada.

8 Q Now, when Mr. Peters tells you that he's going  
9 to drive four by four -- treated six by sixes in the ground  
10 to block the canal, what did that indicate to you?

11 A That he wanted to block the property off.

12 Q And not let anyone into the canal?

13 A Which canal are we talking about, though, the  
14 canal that leads to where we used to bring the marijuana or  
15 the canal that leads to his mother's house?

16 Q The canal that leads to where people were  
17 bringing marijuana. That's what he was going to block off?

18 A Okay, I understand.

19 Q Okay. And you, right, that's what you  
20 understood him to mean?

21 A Yes, sir.

22 Q Okay. And he also said he made some sort of  
23 device that would trip if someone drove into the driveway of  
24 the area, right, he told you that?

25 A Yes, sir.

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1 Q He also told you that people were going in  
2 there probably -- including you that weren't supposed to be  
3 there?

4 A He never included me.

5 Q Didn't he?

6 A I did not go there, if I was not supposed to  
7 be there.

8 Q And then there was a further conversation  
9 about different locations in that same area where marijuana's  
10 coming in, right?

11 A Correct.

12 Q I think one was King's and one was Chico's, is  
13 that fair to say?

14 A Yes, sir.

15 Q And how close are those to this canal, in this  
16 area that we've been talking about?

17 A How far are they from there?

18 Q Yeah, Chico's and King's?

19 A Probably a few miles or more down the river.

20 Q Down the St. Lawrence?

21 A At least a few miles more, I would say.

22 Q But still on the reservation, right?

23 A Correct.

24 Q Now, Colin, you said you're very afraid of  
25 Colin, right?

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1 A Yes, sir.

2 Q But you worked with him for, what is it, two  
3 years or more, roughly two years?

4 A Yes, sir.

5 Q At any point when you were working for him and  
6 were afraid of him, did you call up Mr. Hermes or any other  
7 federal agent and tell them what's going on up there?

8 A What's going on where?

9 Q Well, did you report the criminal activity  
10 that you were engaged in with Mr. Stewart?

11 A At the time?

12 Q Yeah.

13 A No. I was threatened. I tried to get away  
14 and I was threatened. I wasn't backing away.

15 Q Now, for these guns that were recovered in  
16 Syracuse, do you recall the conversation with Mr. Peters, the  
17 recorded conversation?

18 A Yes, sir.

19 Q Now, he knew nothing about that you and Colin  
20 Stewart made a plan to go to Syracuse to pick up guns, isn't  
21 that true?

22 A I assumed he knew nothing about it when we  
23 spoke to each other but I didn't know if Colin had talked to  
24 him or not about it.

25 Q But Colin contacted you to pick up the

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1 handguns, correct?

2 A Correct.

3 Q Do you know if he contacted Corey Spinner?

4 A No.

5 Q To ask him to pick up the handguns?

6 A I don't know if he did or not. I don't  
7 believe he did.

8 Q He contacted Alain Forget, right?

9 A Correct.

10 Q To do this very important task of trying to  
11 smuggle handguns out of the United States, right?

12 A Yes, sir.

13 Q He relied on you, this was an important thing  
14 to do isn't it, get these guns?

15 A Yes, sir.

16 Q Now, Mr. Forget, you also had to -- well, I'll  
17 withdraw that.

18 Colin Stewart is higher up in this  
19 organization than you are, right?

20 A Yes.

21 Q Is he one of the big -- big players in this  
22 whole thing?

23 A It's not somebody you'd want to meet in a dark  
24 ally.

25 Q And he's been doing it for a significant

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1 period of time, is that fair to say?

2 A Yes, sir.

3 Q At least since 2008 with you, right?

4 A Before that and he was doing it before he was  
5 with me.

6 Q So in this business you have to I guess use  
7 your instincts right?

8 A Yes, sir.

9 Q You have to be able to read people, right?

10 A Yes, sir.

11 Q You have to know when you're being lied to,  
12 right?

13 A Right.

14 Q This isn't exactly a business where there's  
15 UPC codes on the product and there's a lot of control. Once  
16 the marijuana starts moving and it's in someone's hands,  
17 you're at their mercy, right?

18 A Correct.

19 Q I mean, you could steal the marijuana, you  
20 could take half the marijuana, right?

21 A If you dare to.

22 Q So, someone like Colin Stewart who you know  
23 personally, is very except skeptical when here's a story,  
24 right, you're going to have to convince him of the truth of  
25 something, is that fair to say?



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1 A I would say.

2 Q Especially handguns, right?

3 A Yes, sir.

4 Q When these handguns were lost to the  
5 authorities, that was a big event, wasn't it?

6 A Yes, sir.

7 Q Made everyone nervous, didn't it?

8 A (No response.)

9 Q It certainly made Colin Stewart nervous,  
10 didn't it?

11 A I'm sure it did. There was only supposed to  
12 be 10 there. Ended up to be 16 or 17 of them and I'm sure --  
13 I was -- I'm sure he was very nervous and I was -- you can  
14 ask Agent Hermes -- I was, as well, petrified as I was  
15 relieved to get those guns off the street.

16 Q Why because you were afraid they might --

17 A I'm not a killer. I don't want people getting  
18 killed over that.

19 Q So --

20 A They weren't going for target practicing, I  
21 can tell you that.

22 Q You were nervous that someone might be in  
23 danger because an illegal handgun --

24 A 100 percent.

25 Q -- might not fall in the right hands, is that

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1 your testimony?

2 A They weren't -- they weren't going in the  
3 right hands of law-abiding citizens by all means.

4 Q So, is it your position that you're against  
5 handguns falling into the wrong hands, is that your general  
6 position?

7 A Yes, sir.

8 Q And that's why you told Agent Hermes about it,  
9 right?

10 A Yes, sir.

11 Q So, Colin Stewart, a major drug trafficker who  
12 is a very dangerous man, according to you, right?

13 A He's got pretty good connections, I can tell  
14 you.

15 Q Okay. You have -- you had to convince him of  
16 the truthfulness of this fictitious event, right?

17 A Yes, sir.

18 Q And you were able to do it, weren't you?

19 A With the help of Agent Hermes.

20 Q Your son, Matt Forget, right?

21 A Yes, sir.

22 Q Is it your testimony that he ultimately  
23 brought you -- got you the cash?

24 A Yes, sir.

25 Q How old's your son?

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1 A 28.

2 Q And you needed him to get you the cash, right,  
3 you needed --

4 A Colin was getting it to him so I needed to get  
5 it from him.

6 Q However you had to do it, you did it. If you  
7 needed involve your son, you involved your son, right?  
8 Because you needed it to get the government off your back,  
9 right?

10 A I could have maybe found another way but --

11 Q But it was easiest to use your son, you knew  
12 him, you knew he wouldn't steal it from you, right?

13 A Right.

14 Q How often would you see Mr. Peters -- I'll  
15 withdraw that.

16 You've testified that you saw -- you either  
17 know Mr. Peters used to scout or you saw him scout, right?

18 A I saw him. And also when he was down on the  
19 property, he would basically tell Colin I'm going to go out  
20 and check things out for you or Colin would ask, could you go  
21 ahead a little bit and make sure everything's good for us.

22 Q Well, earlier you testified that you would  
23 either have small talk or any time you would hear him talking  
24 to Colin, you would back away and didn't hear anything they  
25 were saying?

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1 A Correct.

2 Q And now you're saying you overheard these  
3 conversations?

4 A No, they were basically right in front of us,  
5 as we were all getting ready to leave. And you --

6 Q Was Corey Spinner there for the majority of  
7 these conversations?

8 A He was there at times. I mean, there was --

9 Q Well, he --

10 A There was some times that he wasn't there, as  
11 well.

12 Q He was your right-hand man, right, you brought  
13 him in?

14 A (No response.)

15 Q You testified earlier that he would be there  
16 the majority of the time and he started almost in the  
17 beginning with you, right?

18 A He was there.

19 Q Sir, isn't it true that Mr. Peters did not  
20 drive or block?

21 A (No response.)

22 Q He was not a blocker or a scout for any of  
23 this marijuana smuggling?

24 A He did scout.

25 Q You have any dates for that or any particular

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1 events or anything like that?

2 A Do you honestly think that I wrote this down  
3 in an agenda?

4 Q I didn't think you wrote it down, sir, but you  
5 have a good memory, don't you?

6 A Of certain things, yes.

7 Q Things that will benefit you, right?

8 A Not necessarily.

9 Q You told us one story about -- I'm sorry. You  
10 testified on direct examination that you -- that someone was  
11 coming back with a million dollars, you believe, right?

12 A Yes, sir.

13 Q Cash. And that you were blocking for them,  
14 right?

15 A Yes, sir.

16 Q All right. And let's just go back to the role  
17 of a blocker for a minute, okay. A blocker is supposed to go  
18 out in advance, right?

19 A Correct.

20 Q And, in fact, you call it a scout, don't you?

21 A A blocker, scout, however you want to call it.

22 Q And a scout is a term that means scout ahead,  
23 right?

24 A Correct.

25 Q Look, be my eyes and ears, right?

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1 A Yes, sir.

2 Q Now, it was your testimony on your direct  
3 examination that you were scouting for someone that had a  
4 million dollars in cash in their car, right?

5 A Yes, sir.

6 Q And that you were coming up the Thruway, I-87,  
7 I believe, right?

8 A Yes, sir.

9 Q And that you look over, did you look out your  
10 driver's side window and see the police officer?

11 A I mean, I was behind the truck from a distance  
12 so I -- I noticed him.

13 Q Behind what truck?

14 A Behind Jack.

15 Q You were scouting from behind?

16 A Yes, that's where he wanted me.

17 Q So that's not really scouting then?

18 A Yes, it is. If he takes off after the guy in  
19 front of me, I can make sure he's going to pull me over, if  
20 it means ditching my truck off in the woods causing an  
21 accident for myself.

22 Q Is that something that you would do?

23 A That's what I was told to do and you would do  
24 what they tell you to do.

25 Q Cause an accident?

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1           A     On my own part, not anyone else's harm. Throw  
2 myself off the road in a ditch, whatever it took to get the  
3 attention off the guy in front of me.

4           Q     So you were scouting from behind in this  
5 instance?

6           A     That's where Jacques wanted me.

7           Q     So Jacques having a million dollars of cash in  
8 his car and had no idea if there was a roadblock ahead of  
9 him, is that your testimony?

10          A     There was never roadblocks going north.

11          Q     Or police activity, anything like that?

12          A     He wasn't so much worried about that. Going  
13 north everybody was just more relaxed than anything.

14          Q     And the reason you put yourself behind him --  
15 well, in any event -- and you were right behind him so there  
16 was -- right?

17          A     I was behind within a reasonable distance by  
18 law.

19          Q     Well, on your direct examination you testified  
20 that you actually saw the trooper eyeballing Jack, you  
21 remember that?

22          A     Yes, sir.

23          Q     At what point did you see him eyeballing jack?

24          A     When his wheels of his car kind of turned to  
25 the left and he's -- he's ready to go and you could see him.

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1 I could see his -- his face looking at the truck. The truck  
2 caught his attention. If I would have been in front of the  
3 truck, I would have been having to get myself pulled over but  
4 would he have pulled me over, he might have pulled Jack over.

5 Q Okay. Well, so in any event, you took action,  
6 right?

7 A I did.

8 Q And you swerved erratically?

9 A Not erratically. I just came over the line,  
10 which is all an officer needs for probable cause to pull you  
11 over, and I looked right at him and I rolled my window up  
12 really quick and they were tinted black.

13 Q So you used that because you were manipulating  
14 the officer in that instance, right, you were tricking him  
15 into believing that you were doing something that you  
16 weren't, right?

17 A Correct.

18 Q And when was that, how long ago was that?

19 A There again, I don't have an exact date but  
20 that's when Jacques was driving the trucks and they had given  
21 out trucks at one point in time and Jacques wasn't coming  
22 over as much.

23 Q So when you, after you -- and you were  
24 successful, right, a trained police officer, you tricked him  
25 into pulling you over, right?



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1 A Yes, sir.

2 Q And did he give you a ticket?

3 A No, sir.

4 Q He let you go after all that?

5 A Yes, sir.

6 Q And was Jack able to scoot on by and get out  
7 of there?

8 A Jack was ahead of me. He just kept on sailing  
9 down the road as he was.

10 Q You saved the day, right?

11 A Yes, sir.

12 Q Mr. Forget, you will say anything you have to  
13 to protect your own interests, won't you?

14 A I will answer what you ask me to answer in a  
15 truthful way.

16 Q As long as it helps you, right?

17 A There's no help for me at this point. You've  
18 read my rejection from the probation. It doesn't matter.

19 Q Were you arrested on December 27th?

20 A Yes, sir.

21 Q Is that a separate case from this one or is  
22 that the same case?

23 A I decline to answer that question.

24 MR. SACCO: Your Honor, I have no further  
25 questions.

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1 THE COURT: Okay. Mr. Gardner, are you going to  
2 have anything further?

3 MR. GARDNER: Can I just have one moment, your  
4 Honor.

5 THE COURT: Sure.

6 (Discussion held off the record.)

7 MR. GARDNER: No further questions, your Honor.

8 THE COURT: Okay. Ladies and gentlemen, I'm going  
9 to let you go to lunch. It's 12:13. So, if you want to be  
10 back -- I'm going to be very generous again -- I'm going to  
11 give you 1:15. It just turned to 12:14 on my little thing  
12 here, so.

13 Please don't talk about the case. If anybody  
14 approaches you, tries to talk to you about this case, I need  
15 to know about it immediately.

16 Enjoy your lunch. We'll see you at 1:15.

17 (Jury excused, 12:14 p.m.)

18 THE COURT: All set. You can step down, sir.

19 (Witness excused, 12:15 p.m.)

20 THE COURT: Mr. Gardner, do you have an idea of  
21 witnesses for the rest of the day here?

22 MR. GARDNER: Your Honor, I think the government  
23 will just have Ms. Lobdell and then it's likely the  
24 government would rest.

25 THE COURT: Okay. Just so you can --

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1 MR. SACCO: Over the lunch break we're going to  
2 strategize, Judge, and I'll let you know.

3 THE COURT: That's why I'm asking him because I  
4 want you to be prepared to do what you have to do to be  
5 ready, should you decide you want to go forward with  
6 something this afternoon.

7 MR. SACCO: In the event, Judge -- maybe something  
8 to think about over lunch -- when they close, I'll make my  
9 Rule 29 and, then -- I know the jury has to go out for that,  
10 but if we're not going to do much, I don't know if it makes  
11 sense -- how do you want me to rest in what order? I'm going  
12 to make my Rule 29 and then, if I'm not going to put on a  
13 case, let's say, whether we want to bring them back for me to  
14 rest or how you want to handle it.

15 THE COURT: Oh, we'll handle that. It's not a big  
16 deal. We'll figure that out. Don't worry about that.

17 MR. SACCO: Okay.

18 THE COURT: You just consult with Mr. Peters and  
19 decide what you want to do and we'll go from there.

20 MR. SACCO: Yeah.

21 THE COURT: Depending on what happens, I think we  
22 can anticipate maybe doing a charge conference at the end of  
23 the day so that we can be prepared for tomorrow. We'll see  
24 what time it is. But I think I'll give you overnight to  
25 prepare for your summations and get ready, depending on where

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1 we are.

2 MR. SACCO: Okay, thank you, sir.

3 THE COURT: Enjoy your lunch.

4 THE CLERK: Court's in recess.

5 (Lunch recess taken, 12:15 p.m.)

6 (Open court, 1:15 p.m.)

7 THE COURT: Okay, Counsel, we're all set, ready to  
8 go?

9 MR. GARDNER: We are, your Honor.

10 MR. SACCO: Yes, your Honor.

11 THE COURT: Bring the jury in, please.

12 (Jury present, 1:15 p.m.)

13 THE COURT: The record should reflect we have all  
14 the ladies and gentlemen of the jury. Hope you enjoyed your  
15 lunch.

16 Mr. Gardner, you're calling your next witness?

17 MR. GARDNER: Yes, your Honor, the government calls  
18 Cheryl Lobdell.

19  
20 CHERYL LOBDELL, called as a witness and  
21 being duly sworn, testifies as follows:

22 DIRECT EXAMINATION BY MR. GARDNER:

23 Q Good afternoon, Ms. Lobdell.

24 Can you please state your full name.

25 A Cheryl Lobdell.

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Lobdell - Direct - Gardner

1 Q And, Ms. Lobdell, how old are you?

2 A Forty-seven.

3 Q And prior to your incarceration, what was the  
4 city and state of your residence?

5 A Chateaugay, New York.

6 Q How long have you lived in Chateaugay?

7 A Over 12 years, basically my whole life. I  
8 just took ten years and lived in Canada.

9 Q When was that ten-year period?

10 A From '86 until around '96.

11 Q And prior to '86 you lived in Chateaugay?

12 A Yes, I did.

13 Q Prior to your incarceration, were you  
14 employed?

15 A No, I was not.

16 Q What did you do for money?

17 A I'm disabled.

18 Q Did you receive some kind of disability?

19 A Disability SSI.

20 Q And what's your educational background?

21 A High school graduate.

22 Q Do you have a history of drug and alcohol  
23 abuse?

24 A Yes, I do.

25 Q I should have said drug or -- which one is it?

Lobdell - Direct - Gardner

1 A Both.

2 Q Both?

3 A Alcohol and drug.

4 Q Can you describe that for the jury, please?

5 A Well, I started drinking when I was 10 years  
6 old and I continued drinking throughout my life and then I  
7 got into cocaine in my 20s and I battled with that most of my  
8 adult life. I have been clean now since June 25th, 2012.

9 Q And is cocaine your drug of choice?

10 A Yes, it is.

11 Q Did you abuse any other drugs, other than  
12 cocaine?

13 A No. Well, I tried marijuana once in high  
14 school and I tried acid, nothing -- cocaine was the only.

15 Q Would you say that -- I assume because you  
16 felt like -- let me rephrase that.

17 How much do you use cocaine?

18 A There was part of my life where I was using it  
19 just about every day just to cope with every day living, 'cuz  
20 I didn't know any other way to deal with anything. So, I  
21 turned to the cocaine and the alcohol.

22 Q And when was that? Is that in your 20s? Was  
23 that more recently?

24 A Throughout my life.

25 Q Ms. Lobdell, did you plead guilty to an

Lobdell - Direct - Gardner

1 offense against the United States?

2 A Yes, I did.

3 Q And we'll get into the details of what you did  
4 but can you generally state what you did.

5 A Yes. I was picking up marijuana at the point  
6 A and drop it off at point B.

7 Q And do you remember what specific crime you  
8 pled guilty to?

9 A Conspiracy to traffic and distribute.

10 Q Marijuana?

11 A Marijuana.

12 Q More than a hundred kilograms of marijuana?

13 A Yes.

14 Q And did you enter into a plea agreement with  
15 the government?

16 A Yes, I did.

17 Q At the time that you pled guilty, did you also  
18 enter into a cooperation agreement?

19 A Yes, I did.

20 Q Do you recall what your understanding of the  
21 cooperation agreement was?

22 A That I would cooperate in any way that I could  
23 of anything that I did know or had any idea of, to come forth  
24 and tell the truth on it.

25 Q And did you hope to or expect to receive some

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1 kind of benefit for your cooperation with the government?

2 A I did but I didn't know what.

3 Q Is it fair to say you hoped to receive a  
4 lesser sentence --

5 A Yes.

6 Q -- at some point?

7 A Because I was planning on not going to prison.

8 Q After you pled guilty, were you released on  
9 conditions?

10 A Yes.

11 Q Meaning the Court set a list of conditions  
12 that you had to abide by while you remained out of custody?

13 A Yes.

14 Q And at some point did you violate those  
15 conditions?

16 A Yes, I did.

17 Q Can you describe what you did?

18 A I was back using cocaine.

19 Q So at some point you tested positive for  
20 cocaine?

21 A Yes, I did.

22 Q Was it on more than one occasion?

23 A Yes, it was.

24 Q And at some point did you have a diluted urine  
25 sample?



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1 A Yes, I did.

2 Q Do you recall how you tried to -- how you did  
3 dilute that sample?

4 A Yes, I drank -- that was over 64 ounces of  
5 Gatorade®.

6 Q Ms. Lobdell, have you been sentenced?

7 A Yes, I have.

8 Q And do you recall what your sentence was?

9 A Thirty-three months, six months halfway house,  
10 four years probation after.

11 Q And are you in the process of serving that  
12 sentence right now?

13 A Yes, I am.

14 Q Do you recall approximately when you were  
15 sentenced?

16 A June -- January 10th, 2013.

17 Q So just a little over a year ago?

18 A Yes, sir.

19 Q At the time of sentencing did the government  
20 make a recommendation to the judge to have your sentence  
21 reduced?

22 A Yes.

23 Q And, as far as you know, did the Court take  
24 that into consideration when you were sentenced?

25 A Yes, I believe so.

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1                   Q     At the time, what were the maximum penalties  
2 you were facing?

3                   A     I do not know myself.

4                   Q     Did you have a mandatory minimum sentence of  
5 five years?

6                   A     Yes, I do believe so.

7                   Q     So you were sentenced below that mandatory  
8 minimum?

9                   A     Yes.

10                  Q     And, as far as you know, were you sentenced  
11 below the mandatory minimum because of the government's  
12 recommendation?

13                  A     I believe so, yes.

14                  Q     In 2006 were you convicted of grand larceny  
15 and falsifying business records?

16                  A     Yes, I was.

17                  Q     Where was that charge?

18                  A     Chateaugay, New York. Kulja Food Mart.

19                  Q     And do you recall what the sentence was?

20                  A     Five years probation.

21                  Q     Did you have to pay a fine or restitution?

22                  A     I paid restitution back.

23                  Q     At this point in time, Ms. Lobdell, do you  
24 expect to receive any additional benefits from your  
25 cooperation?

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1 A No.

2 Q Do you expect that your sentence will be  
3 reduced any further?

4 A No.

5 Q Ms. Lobdell, what did you do to prepare for  
6 your testimony here today?

7 A I met with you twice. You just asked me a  
8 couple questions and I just answered them and that was it.

9 Q And did you review your grand jury testimony?

10 A Yes, I did.

11 Q Ms. Lobdell, you indicated that you pled  
12 guilty to being involved in a drug conspiracy, correct?

13 A Yes.

14 Q Approximately when did you first become  
15 involved in this drug conspiracy?

16 A Back in the '90s.

17 Q Do you remember, mid-'90s, early '90s?

18 A Early '90s.

19 Q And can you describe for the jury how that  
20 came about, how you became involved in the conspiracy?

21 A I had met a gentleman and we started dating  
22 and I was working at a bar that was owned by one of his  
23 friends and he was running marijuana and asked me to go  
24 ahead, be like a scout, a runner up ahead to let them know if  
25 there was any police up ahead or any roadblocks.

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1                   Q     I want to talk about that in a little bit more  
2 detail. Who was this individual?

3                   A     Roger St. Onge.

4                   Q     And you said you had a romantic relationship  
5 with Mr. St. Onge?

6                   A     Yes, I did.

7                   Q     And you mentioned that you were living in  
8 Canada at this time, right?

9                   A     Yes, I was.

10                  Q     Where exactly in Canada?

11                  A     Around like Huntington/Saint-Anicet area.

12                  Q     Where is that in relationship to the Akwasasne  
13 Mohawk Indian reservation?

14                  A     Saint-Anicet is approximately maybe a half  
15 hour from the -- going by boat from the reservation.

16                  Q     So is it on the north side of the St.  
17 Lawrence?

18                  A     No, it is on the south side.

19                  Q     Okay. And were you working at that time?

20                  A     Yes, I was.

21                  Q     Where were you working?

22                  A     Pourvoirie Bernard Hart.

23                  Q     And what is that?

24                  A     It's a bar. They have like the bar. They  
25 also have minnows for fishing. They rent out boats for

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1 fishing.

2 Q Do you know, I'm sorry. I'm jumping ahead.  
3 What was your job at that bar?

4 A Barmaid.

5 Q You were a bartender, you served drinks?

6 A Yes.

7 Q Do you know who owned the bar?

8 A Claude Marchand and Clement Chalboise.

9 Q Did your boyfriend, Roger St. Onge, did he  
10 have any relationship with Claude Marchand?

11 A They were friends and he worked for Claude.

12 Q Worked for Claude in what way?

13 A Whatever was asked of him he did, I guess.

14 Q Well, you mentioned that Roger St. Onge was  
15 involved in marijuana trafficking I believe?

16 A Yes.

17 Q Did Claude and Roger work together in that  
18 business?

19 A Yes.

20 Q You said Roger worked for Claude?

21 A Yes.

22 Q Now, before we get into the details of how you  
23 became involved with the drug conspiracy, do you know the  
24 defendant in this case, Mr. Allan Peters?

25 A Yes, I do.

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1 Q And approximately how long have you known  
2 Mr. Peters?

3 A Since the early '90s.

4 Q Did you ever see him at that bar?

5 A Yes.

6 Q And do you know him as Allan Peters or do you  
7 know him by any other name?

8 A Allan Peters and also Hiio.

9 Q Hiio. Do you know of any nickname that the  
10 defendant has gone by or that people refer to him as?

11 A Um, he had one that was in my phone, The Big  
12 Guy.

13 Q So you stated that at some point Roger St.  
14 Onge approached you and asked you to work; is that correct?

15 A Yes.

16 Q And I think you said work as a scout?

17 A Yes.

18 Q Can you describe that conversation a little  
19 bit, how did that happen?

20 A Basically just sitting at home -- I can't  
21 remember exactly if it was at home or at the bar and he was  
22 going on a run and informed me that I would go up ahead and  
23 what road I had to take and where I had to call from.

24 Q Were you surprised when Roger St. Onge asked  
25 you to do this?

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1 A Yes.

2 Q How come?

3 A Because I -- I was still new to everybody in  
4 the area, and not comfortable.

5 Q Did you know that St. Onge and Marchand were  
6 involved in drug smuggling?

7 A Yes.

8 Q How did you know that?

9 A From the talk sitting at the table with them.

10 Q They would talk about it?

11 A Yes.

12 Q And I know you indicated a little bit earlier  
13 but what time frame are we talking about?

14 A Early '90s.

15 Q Early '90s. So, did either St. Onge or  
16 Marchand talk to you about what you would have to do, what it  
17 means to be a scout, what routes to take, things like that?

18 A Yes.

19 Q Can you describe what they told you?

20 A Yes, Roger had me go one time with him and he  
21 explained exactly what road I had to take, going down 87 and  
22 then going 9, Route 22, go down as far as Ticonderoga or Lake  
23 George to make sure you bypass 87. There was checkpoints.

24 Q And did they describe where you would be  
25 scouting from, where your start point was?

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1 A Yes.

2 Q And where was that?

3 A We started on the reservation.

4 Q Any particular place on the reservation?

5 A At the beginning it was just on 37 and then we  
6 went down to Hiio's mother's place.

7 Q The defendant's mother's property?

8 A Yes.

9 Q Ms. Lobdell, can you go ahead and look on the  
10 monitor and look at Government Exhibit 3.

11 A Yes.

12 Q And let me know if you recognize that.

13 A Yes, I do.

14 Q Do you recognize the area that's being  
15 depicted in Government Exhibit 3?

16 A Yes, I do.

17 Q What is it?

18 A It's the route -- like Route 37 is where I  
19 come to and then I connect to come out on the reservation or  
20 I go in and you go down on 43 to go right in to go along the  
21 Snye and to Hiio's mother's place where the canal is that we  
22 would go to get loaded.

23 Q Do you see there's a pen right up there?

24 A Yep.

25 Q If you can go ahead and first indicate where



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1 the defendant's mother's residence is.

2 A Over here. (Marking exhibit.)

3 Q You mentioned you took a particular route to  
4 get there. Can you go ahead and use that pen and show us  
5 what route you took to get there?

6 A There's a couple different ways. At the  
7 beginning we would just go along the Snye and then out like  
8 this. Back to 37.

9 Q We can clear that. Hold on one second.

10 Go ahead.

11 A Then you could also go down, come up, and go  
12 like this and this here you could either go this way or you  
13 could go down like this, back to 37, or you can go back this  
14 way and come out here. So you have a couple different  
15 routes.

16 Q Are these the routes that Roger St. Onge and  
17 Marchand explained to you?

18 A They started -- they always went the other way  
19 and then I was told about these afterwards.

20 Q When you were scouting, was there a lot of  
21 variation between one trip to or another or were they all  
22 pretty similar?

23 A They were all about the same.

24 Q Let's talk just about, I guess, an average or  
25 a typical scouting trip. What would you do or how would you

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1 know that Marchand or St. Onge wanted you to scout?

2 A They would just call and say, well, we're  
3 going to head out today to go shopping or do something.

4 Q They would say we're going to go out shopping?

5 A Yeah, if I wanted to go shopping.

6 Q What did that mean to you?

7 A To me that I was going out scouting for the  
8 day.

9 Q Is that like a code word?

10 A Yes.

11 Q And if they told you that you were going to go  
12 shopping, would they say that day or the next day?

13 A It would depend. It usually would be next  
14 day, the next morning.

15 Q Would they give you a specific time?

16 A Yes, they would.

17 Q And would they tell you where that you would  
18 start scouting from, would they tell you where to meet?

19 A Yes. At the beginning.

20 Q And where was that location?

21 A It started off at Hiio's mother's place.

22 Q So what would happen when you would arrive at  
23 the defendant's mother's residence?

24 A When I went there a couple times for him, I  
25 would sit at the corner by a gate.

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1 Q Looking back at Government Exhibit 3, do you  
2 think you could show us where that gate is?

3 A It's right about right there.

4 Q Right near that dogleg?

5 A Yes.

6 Q Why would you wait by the gate?

7 A That's where I was told to wait and then I  
8 would get notified somehow, either somebody would drive by  
9 and like wave and say, okay, go, or.

10 Q Who would drive by?

11 A Hiio did a couple times.

12 Q Anybody else?

13 A No, they call on the phone and just text over  
14 and say take off.

15 Q So either the defendant would drive by and  
16 tell you to go --

17 A Mm-mm.

18 Q -- or --

19 A Get a text or phone call to say take off.

20 Q From St. Onge or Marchand?

21 A Yes.

22 Q You mentioned that gate there. Was that gate  
23 ever locked?

24 A Yes, it was one time I remember.

25 Q What did you do?

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1           A     I called Roger and said that the gate's  
2 locked, I can't go up there and he says, hang on, he says,  
3 I'll get a hold of Hiio and then you can go back.

4           Q     Now at that location when you're at that gate,  
5 can you see the defendant's mother's property?

6           A     Not from the gate, no, you cannot.

7           Q     Did you see how the marijuana was coming down  
8 to the property at that time?

9           A     I would just see when I'd go and back up to --  
10 there's a little canal that I would go to and they'd bring it  
11 in either on boats in the summertime or snow sleds in the  
12 wintertime.

13          Q     Is that in the future or was that when you  
14 first started and you were just scouting?

15          A     Oh, in the future.

16          Q     All right.

17          A     When I first scouted, no, I did not.

18          Q     And before I forget, you referred to this area  
19 as the defendant's mother's property. Why did you think it  
20 was defendant's mother's property?

21          A     That's what I was told.

22          Q     Who told you that?

23          A     That's what Hiio said. That's what Roger had  
24 said.

25          Q     The --

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1 A It was my mother's --

2 Q -- the defendant told you --

3 A -- house. It's at the end of the Snye.

4 Q And when you were first scouting and waiting  
5 at the gate here, who was driving the load vehicle, the  
6 vehicle with the marijuana in it?

7 A Roger St. Onge.

8 Q How did you know there was marijuana in the  
9 vehicle?

10 A Because he told me.

11 Q St. Onge did?

12 A Yes.

13 Q Was St. Onge pretty open when he had  
14 conversations with you?

15 A Yes, with me, not over a phone or anything but  
16 direct.

17 Q Face to face?

18 A Yes.

19 Q So once you got the signal, either from the  
20 defendant or from Marchand or St. Onge to go ahead, what  
21 would you do?

22 A I would take off. When I leave the res and I  
23 go down 37 to Malone and then I'd stop and phone back, let  
24 them know the coast was clear. And from Malone, I'd take off  
25 to Plattsburgh and I'd phone again and I say, okay, continue

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1 on. And Plattsburgh, I'd go down a little farther to -- I  
2 can't remember the little towns in between but I had to stop  
3 every so often to get to a phone and call them.

4 Q Who would you call?

5 A Roger St. Onge.

6 Q Did you always call from those particular  
7 points that you just mentioned?

8 A Yes.

9 Q Why is that?

10 A Just to doublecheck to make sure there is no  
11 roadblocks or anything like that.

12 Q I guess my question was more: Why did you  
13 call from those particular locations?

14 A I was told.

15 Q Okay. That's what I'm asking. Who told you  
16 that?

17 A Roger St. Onge.

18 Q How far would you go down Interstate 87?

19 A Either Ticonderoga or down to Lake George.

20 Q Why would you turn around at that point?

21 A Because after that, they figured there'd be no  
22 roadblocks or anything up -- that's as far as they needed a  
23 scout was down to there.

24 Q Was there a roadblock or a checkpoint that  
25 they were worried about?

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1 A Yes, High Peaks.

2 Q The High Peaks checkpoint?

3 A Yes.

4 Q Are you familiar with that checkpoint?

5 A Yes.

6 Q We'll talk about that in a minute.

7 In that time period in the early '90s,

8 mid-'90s, how often would you work as a scout?

9 A It depended. I didn't go, you know, a lot. A  
10 few times a year I'd go.

11 Q By a few times a year, you mean three, four  
12 times?

13 A Yes.

14 Q At some point did you start transporting loads  
15 of marijuana yourself?

16 A Yes.

17 Q Can you describe to the jury how that -- how  
18 that happened?

19 A It was around 2000, when I was first  
20 approached about it and Roger St. Onge had picked me up and  
21 had me ride with him and he said, oh, it's time that you can  
22 take over and do it. And so I rode with him in like the lead  
23 vehicle with the loaded vehicle until we got down to Glens  
24 Falls and then he says, next time I call, I'll have you --  
25 you can start doing it and then he says, I don't have to come

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1 down to the states any more.

2 Q So he rode with you one time?

3 A Yes.

4 Q And showed you where to go kind of thing?

5 A Just showed me the route to go down. He made  
6 the delivery himself, but he took me as far as, like, Lake  
7 George and then I got in with somebody else and they brought  
8 me back home.

9 Q And I should have asked you just a moment ago.  
10 When you were scouting, were you being paid?

11 A Yes.

12 Q And how much would you get paid?

13 A \$500.

14 Q Per trip?

15 A Yes.

16 Q And when you started to transport loads  
17 yourself, did that pay increase at all?

18 A Yes.

19 Q To what?

20 A 2500.

21 Q Was that a flat rate?

22 A Yes, it was going to be 5,000 but I never got  
23 5,000. It was only 2500 that I would get.

24 Q And you mentioned that Roger didn't want to  
25 come into the states any more, why is that?



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1           A     He didn't like it. And the only way he could  
2 come into the states was through Snye because he can not  
3 drive through the border.

4           Q     Why is that, he had some --

5           A     I -- there is something. I don't know if  
6 there was a charge or what, but he wasn't allowed in the  
7 states.

8           Q     In the year 2000 when you started to take over  
9 these trips, were you and Roger still in a romantic  
10 relationship?

11          A     Off and on.

12          Q     Were there times during this period that you  
13 didn't work much?

14          A     Yes.

15          Q     Do you remember those time periods?

16          A     Right after I first started up until around  
17 2005 I started back in again. We only did a couple loads  
18 from that time.

19          Q     You mean from the early '90s up until 2005?

20          A     Yes.

21          Q     Is that what you mean?

22          A     (Witness nodding.)

23          Q     Okay. Is it fair to say that the work was  
24 sporadic during that time period?

25          A     Yes, it was.

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1 Q What happened in 2005?

2 A They asked me to go back to work.

3 Q Who asked?

4 A Roger St. Onge called first.

5 Q Now, do you know an individual named Colin  
6 Stewart?

7 A Yes, I do.

8 Q And who is Colin Stewart?

9 A He approached me also to work for him, him and  
10 Stefan.

11 Q Ms. Lobdell, can you go ahead and look at  
12 Government Exhibit 20 and let me know if you recognize that  
13 individual.

14 A Yes, that is Colin Stewart.

15 Q And you mentioned Colin and another person  
16 approached you. Who was the other person?

17 A Stefan Trepanier.

18 Q Ms. Lobdell, can you look at Government  
19 Exhibit 24 and let me know if you recognize that individual.

20 A Yes, that is Stefan.

21 Q So what happened when Colin and Stefan  
22 approached you?

23 A I started running for them. They would just  
24 call and tell me what time to be at Hiio's and I'd go, back  
25 up, they'd load, they'd give me a number or --

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1 Q Let me slow you down just a little bit.

2 So, was there a relationship between Colin and  
3 Stefan and St. Onge and Marchand?

4 A They were all friends and Stefan was like  
5 Claude's son because, like, Claude had raised him but he  
6 wasn't his real father.

7 Q Who was his real father?

8 A Jacques Trepanier.

9 Q So they were friends and associates. Were  
10 they working together in the marijuana business?

11 A Yes, because they would be at the bar together  
12 and they would talk.

13 Q Because you indicated that Marchand and  
14 St. Onge approached you and then you indicated that Colin and  
15 Stefan had approached you?

16 A Yes, because it was okay to work for them  
17 through Roger. I always had to get the okay through Roger.

18 Q And did you get the okay?

19 A Yes.

20 Q In 2005 were you still in a romantic  
21 relationship with St. Onge?

22 A Not really. We still talked and, you know,  
23 talked once about getting together again, but we were just  
24 always friends after.

25 Q So what was Colin Stewart's role in this

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1 organization?

2 A For me, he was setting up bringing the  
3 product, you know, the marijuana over and telling me where to  
4 go.

5 Q And what about Stefan?

6 A He was the same.

7 Q Did Stefan and Colin work with any other  
8 people? You've mentioned Jacques?

9 A Yes. He would be there at times and they'd  
10 load up the vehicle and Jacques would drive it also.

11 Q Let's talk about that. When Colin and Stefan  
12 asked you to work, did they want you to work as a scout or  
13 work transporting the load vehicle?

14 A Transporting.

15 Q And, again, when you were transporting the  
16 loads for Colin and Stefan, was it a -- was there a lot of  
17 variation between one trip to the next?

18 A No, they were all basically around the same  
19 size until later on and then this changed to a larger size.

20 Q I didn't phrase that question very well. Was  
21 there a lot of difference between the events of what would  
22 happen --

23 A No.

24 Q -- from one trip to the next?

25 A No.

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1 Q Typically if Colin and Stefan wanted you to  
2 transport a load, how would they let you know?

3 A They would just text me.

4 Q What would they text you?

5 A Just text and just let me, you know, if I  
6 wanted to meet in the morning or something and I'd say yes.

7 Q I'm sorry, say that one more.

8 A They'd ask if I wanted to meet in the morning  
9 and I'd say yes and then they'd have a time and they'd show  
10 up.

11 Q Would they give you a hard time for when you  
12 were supposed to show up?

13 A If I didn't, yes.

14 Q Okay.

15 A But I made sure I'd be there.

16 Q Would they tell you where they wanted you to  
17 meet?

18 A I just -- no, because I knew with Stefan  
19 calling, I'd just go to Hiio's mother's place. I'd just go  
20 right there.

21 Q So what would happen when you would arrive at  
22 Hiio's mother's place -- the defendant's mother's place,  
23 excuse me?

24 A I'd pull up. I'd go along the canal and I'd  
25 back up and I'd sit there with the car. Sometimes they'd

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1 already be there and other times they would pull in and I  
2 would just sit and they would load it up.

3 Q Sorry. I want to slow you down just a little  
4 bit.

5 We're looking at Government Exhibit 4. Do you  
6 recognize this area?

7 A Yes.

8 Q And what is it?

9 A This is at the end of the Snye, Hiio's  
10 mother's place up here in the square.

11 Q In the black square?

12 A Yes.

13 Q And now you just were describing how you would  
14 meet Colin and Stefan, correct?

15 A Yes.

16 Q Where would that meeting take place?

17 A That would be on the canal right here.

18 Q And how would Stefan and Colin arrive at that  
19 location?

20 A Either by boat or by snow sled, depending on  
21 the time of year it was.

22 Q In the winter was it accessible by a  
23 snowmobile?

24 A Yes, when the river had froze.

25 Q And who would be on the boat or the

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1 snowmobile?

2 A You'd have Colin, Stefan, once in a while  
3 Roger showed up, Marchand showed up. There would be a couple  
4 of other guys but I did not know them.

5 Q You didn't know everybody that was involved?

6 A No, I did not.

7 Q You mentioned that sometimes when you would  
8 arrive at this location, they would already be there --

9 A Yes.

10 Q -- and sometimes they wouldn't?

11 A Yes.

12 Q If they weren't there already, what would you  
13 do?

14 A I'd just sit there and wait.

15 Q What would happen when Colin and whoever  
16 showed up on the boat with the load of marijuana?

17 A They'd get out and they'd load up the vehicle.  
18 Hiio would show up and they would talk.

19 Q Who would talk?

20 A Hiio, Stefan.

21 Q And what would --

22 A Colin.

23 Q What would Colin and Stefan and the defendant  
24 talk about?

25 A They'd talk about the day. They would talk

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1 about other things that they had going on of helping each  
2 other out. Sometimes they'd ask to exchange money for them.

3 Q All right. Well, let's talk about all those  
4 things.

5 You said that they would talk about what was  
6 going on that day, is that what you said?

7 A Yes.

8 Q What do you mean by that?

9 A Well, if at times if we'd come back or not.  
10 Sometimes when we would leave, we may have to return back  
11 through his mother's place, if we had to bring cash back. So  
12 they would let him know if somebody would be coming back  
13 through or not and just if there's other people coming  
14 through or if they're coming in the next day or two again.

15 Q Why would Stefan and Colin tell the defendant  
16 about this?

17 A Myself, I just assumed because he was checking  
18 everything that was coming through.

19 Q What was your overall understanding of the  
20 defendant's role in this organization, if any?

21 A He was there at the spot to transport the  
22 marijuana across the border.

23 Q So let's talk a little bit about what Colin  
24 and Stefan brought across. You indicated there were loads of  
25 marijuana?



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1 A Yes.

2 Q Can you describe how the marijuana was  
3 packaged?

4 A Yes, they were in sealed bags. They were all  
5 vacuum sealed and they were put in hockey bags.

6 Q Hockey bags?

7 A Yes.

8 Q Did you ever look inside those hockey bags?

9 A No, because at times they were sealed with  
10 little locks and then at times they would have on the zipper  
11 of them there would be like wax or something melted on top so  
12 you could not open them. But you could see because there was  
13 holes in the hockey bags that you could see the green right  
14 through it (indicating).

15 Q Were you familiar what marijuana looked like?

16 A Yes.

17 Q And how's that?

18 A Because, well, Roger St. Onge smoked it all  
19 the time and it was, you know, always around.

20 Q These hockey bags, did they have any  
21 particular odor?

22 A Oh, yes.

23 Q What kind of odor?

24 A It smelled like a skunk at times, very strong.

25 Q Are you familiar with the smell of marijuana?

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1 A Yes, I am.

2 Q Was it similar to that?

3 A Yes, it is -- was.

4 Q Now you said that the defendant was there  
5 sometimes; is that right?

6 A Yes.

7 Q And that he would talk to Colin and Stefan?

8 A Yes.

9 Q Where would the defendant be exactly?

10 A He'd be sitting in his truck most of the time.  
11 When he pull up, he'd just sit there in his truck and talk.

12 Q Right at the boat landing or somewhere else?

13 A Oh, yes. He'd pull right up to the boat  
14 landing like by my car or whatever vehicles were there.

15 Q Once your vehicle was loaded up, what would  
16 happen from there?

17 A Then I'd wait. Hiio would take off first and  
18 he would scout up to 37 or up to the diner on the corner of  
19 37 and 122 and he would call back to either Stefan or Colin  
20 or Matt Forget used to be there, also, and say, yes or no if  
21 it was okay to go and then they say okay, take off and so  
22 then I would leave.

23 Q How do you know the defendant was scouting?

24 A Because they told me we have to wait until  
25 Hiio's calls back before you can leave. He's just checking

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1 the route for you.

2 Q Who would tell you that?

3 A Stefan or Colin, whoever was standing at that  
4 time that day with me.

5 Q And you mentioned that he would go to 37 or  
6 another location?

7 A Yeah. Sometimes he would go down Route 37 all  
8 the way to the corner of 122 and 37. There was a little  
9 diner there.

10 Q How do you know he went to that diner?

11 A Because he had told me before that he only  
12 goes that far and I've gone through before and seen his truck  
13 there.

14 Q Who told you that?

15 A Hiio told me that.

16 Q The defendant?

17 A Yes. That's as far as that he goes.

18 Q You indicated that Colin and Stefan would be  
19 in communication with the defendant while he was scouting; is  
20 that right?

21 A Yes.

22 Q Are you aware of any instances where the  
23 defendant reported a problem that stopped you or held you up  
24 from going?

25 A No.

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1 Q The coast is usually clear?

2 A Yes, it was.

3 Q Now, where were you delivering these loads of  
4 marijuana to?

5 A Albany, New York City, Boston, Connecticut,  
6 Vermont.

7 Q All over?

8 A Yes, sir.

9 Q How would you know where to go?

10 A When I'd get there in the morning, they would  
11 give me a piece of paper.

12 Q Who would give you a piece of paper?

13 A Either Roger St. Onge or Stefan or Colin or  
14 Matt.

15 Q Who's Matt?

16 A Matt Forget. He was there, also, at the end.

17 Q Ms. Lobdell, do you recognize the individual  
18 depicted in Government Exhibit 23?

19 A Yes, I do. That is Matt Forget.

20 Q And you indicated he was there at the end, I  
21 think is what you said?

22 A Yes, because he started coming and bringing  
23 the marijuana up, also.

24 Q We were talking about the destination that you  
25 were going to and you said you would get a little piece of

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1 paper, right?

2 A Yes.

3 Q What was on that piece of paper?

4 A It was an address or a phone number and then I  
5 would just take off and go.

6 Q An exact address?

7 A Sometimes, yes, it was.

8 Q Well, if it wasn't an exact address, what  
9 would it be?

10 A A phone number.

11 Q Just a phone number?

12 A Just a phone number and I'd call and then  
13 they'd say, okay, meet me at such a place and then I would  
14 follow them to where they wanted it dropped off.

15 Q If you had just a phone number, how would you  
16 know which direction to drive in?

17 A Because we always came down 87 towards Albany  
18 and they would say, you know, when you hit Albany, give the  
19 number a call and then they would tell you where to go from  
20 there.

21 Q You indicated earlier that you would also  
22 transport money back to the defendant's mother's property; is  
23 that correct?

24 A Yes.

25 Q Can you describe for the jury how that came

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1 about?

2 A Just when I'd go and drop a load off, they  
3 would say, you have to take this back up with you.

4 Q Who would say?

5 A Whomever it was that I would drop off the  
6 marijuana to.

7 Q The person receiving the load of marijuana?

8 A Yes. And it would be packaged in bundles and  
9 then vacuum sealed and be put in like a bag or a box or  
10 something and handed to me.

11 Q Would you be aware of the quantity of money  
12 that you were transporting back?

13 A Not normally. There's one time when they told  
14 me, you know, well, there was -- he was on a phone, the  
15 gentleman that I dropped off to was on the phone telling him  
16 that she's leaving and she's bringing 75.

17 Q What did that mean to you?

18 A 75,000.

19 Q Are there any other instances where you were  
20 aware of how much money you were transporting?

21 A There was a time that these people counted out  
22 money and I was watching it but I -- I didn't pay any  
23 attention because my job was just one point to the next. And  
24 they're counting it out and it was a large sum, close to a  
25 million dollars.

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1                   Q     And who were these people that were counting  
2 out the money?

3                   A     They were down in New Jersey.

4                   Q     Were they people that you had delivered a load  
5 of marijuana to?

6                   A     Yes.

7                   Q     And what did that approximate a million  
8 dollars, what did that represent?

9                   A     The product, what they had and more product to  
10 come in.

11                  Q     Was it payment for the marijuana?

12                  A     Yes.

13                  Q     If you picked up money from these customers,  
14 what would you do with it?

15                  A     I'd take it right back and I'd meet them and  
16 give it right back to them.

17                  Q     Meet who?

18                  A     Whomever I had gone down for, Roger, Matt,  
19 Stefan, Colin.

20                  Q     Where would you meet them?

21                  A     At the spot at Hiio's mother's place on the  
22 canal.

23                  Q     They would come back across the river by boat  
24 or snowmobile?

25                  A     Yes.

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1                   Q     Did you get paid any extra for transporting  
2 the currency back?

3                   A     No.

4                   Q     You mentioned the glue on the bags of  
5 marijuana. Was there any -- something similar for the money  
6 to prevent tampering?

7                   A     Yes. They would have it taped off and they'd  
8 sign it with their name or another way so you can tell if a  
9 seal was broken or not.

10                  Q     Who would sign it with their name?

11                  A     The person that I delivered the product to.

12                  Q     You mentioned a little earlier that the  
13 defendant would sometimes exchange money for Colin or Stefan  
14 or someone like that; is that right?

15                  A     Yes.

16                  Q     How often would that occur?

17                  A     I don't know how many times but it was often  
18 that they would ask him to exchange it.

19                  Q     Can you describe for the jury how that  
20 conversation would go?

21                  A     Well, they -- I know one time that they went  
22 to him and they'd ask if they could -- if he could exchange  
23 some Canadian money to American so then he could give some  
24 money to myself and then keep some for hisself for his pay.

25                  Q     You used a lot of hes in there.



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1 A Oh.

2 Q And can you restate that and use the people's  
3 names?

4 A Sorry.

5 Q That's okay.

6 A Either Colin or Stefan would ask Hiio if he  
7 would exchange -- if Hiio could exchange some money from the  
8 Canadian into American and then give that money to myself for  
9 my pay and then the other money is part of his pay.

10 Q Whose pay?

11 A Hiio's.

12 Q And you observed this conversation?

13 A Yes.

14 Q Would that happen or did that just happen one  
15 time or often?

16 A No, that was a couple times.

17 Q So what would the defendant do when Colin,  
18 Stefan or St. Onge would give him money to exchange?

19 A He'd take the money and he says, oh, give me a  
20 day or so and I'll let you know when the money's ready.

21 Q What would happen in a day or so?

22 A The one time it's like they told me Hiio's  
23 ready and they said I could just text him and he'd meet me  
24 and he'd give me the money.

25 Q So the defendant would give you the money

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1 directly?

2 A Yes.

3 Q And what was that money for?

4 A For payment of trips that I had taken.

5 Q How often did the defendant give you payment  
6 for your --

7 A It was --

8 Q -- your transporting marijuana?

9 A It was only a couple times that he paid me  
10 himself.

11 Q Do you remember where you would meet him to  
12 get the money?

13 A One time it was at the little diner at the  
14 corner of 122 -- Route 122 and Route 37. We met there once.

15 Q The place you indicated the defendant would  
16 scout to sometimes?

17 A Yes.

18 Q Now you said defendant would say "I need a day  
19 or two to exchange some money"; is that right?

20 A Yes.

21 Q Was the defendant ever able to exchange the  
22 money right then and there?

23 A Not to my knowledge. I don't know how long it  
24 took.

25 Q Do you know how the defendant exchanged the

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1 money, either from I guess I should ask -- I'm sorry, let me  
2 rephrase that question.

3 Was the defendant exchanging the money from  
4 Canadian to U.S. currency or from U.S. currency to Canadian  
5 currency?

6 A It was always -- most not always. I cannot  
7 say always because there was a time when I know that it went  
8 from American to Canadian but it usually went from Canadian  
9 to American.

10 Q And was that money that Colin and Stefan had  
11 brought down from Canada or was it money that you had brought  
12 from a customer?

13 A They usually brought it down. There was  
14 sometimes, though, that when I brought money back, they would  
15 open it and give us money right out of it.

16 Q Okay.

17 A They as in Colin or Stefan or Roger St. Onge.

18 Q Let's talk about that a little bit. Sometimes  
19 you would bring back money and they would -- Colin or Stefan  
20 would open up the money?

21 A Yes.

22 Q And what would happen?

23 A They would give me some and if Hiio was there  
24 at the time, they would give him some, too.

25 Q Was there any conversation about why they were

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1 giving him money?

2 A That was just his cut for coming through.

3 Q His cut for coming through, you mean coming  
4 through the property?

5 A Yes.

6 Q Let me go back just for a moment. When -- on  
7 those few occasions when the defendant paid you for  
8 transporting a load of marijuana, you said that you would  
9 contact him.

10 A Yes.

11 Q Was that by phone, by text, in person?

12 A By text.

13 Q And when you contacted him by text, was the  
14 defendant aware that he was supposed to pay you?

15 A Yes.

16 Q How did you know how to contact the defendant?

17 A They just had it preprogrammed in a phone they  
18 gave me. Like Roger St. Onge gave me a BlackBerry, I believe  
19 it was, and they had it programmed in that.

20 Q They had the defendant's number programmed  
21 into it?

22 A Yes, they did.

23 Q Did Colin or Stefan ever pay you for anything  
24 other than transporting the marijuana?

25 A No.

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1 Q Did you ever need money for expenses?

2 A Yes.

3 Q Did they give you money for expenses?

4 A Yes, if I'd ask for it because I needed money  
5 for my gas and that to go down.

6 Q So we've talked kind of generally about what  
7 you did. But I'd like to talk a little bit more specific  
8 about the time periods which you did it.

9 And I'd like to focus on the time period after  
10 2005.

11 A Mm-mm.

12 Q Am I right in understanding, from what you  
13 said earlier, that 2005 was about the time that you came back  
14 into the organization and that Colin and Stefan were a part  
15 of the organization?

16 A Yes.

17 Q Once you came back into the organization in  
18 2005, how much would you go to the defendant's mother's  
19 property to pick up a load of marijuana?

20 A It depended on -- there was times that we  
21 could go four or five trips in a month and then we might not  
22 go for a few months.

23 Q Was there a reason why you might take a couple  
24 of months off?

25 A Well, I know in the fall or beginning of

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1 winter we'd have to take time off because of the river  
2 freezing and then we'd have to wait for it to thaw out again  
3 and just getting -- it's just lining everything up.

4 Q We're going to talk about it in a moment, but  
5 were you stopped by law enforcement in May of 2009 with a  
6 load of marijuana?

7 A Yes, I was.

8 Q So between 2005 and 2009 when you were caught,  
9 can you average how many times you would pick up a load of  
10 marijuana from the defendant's mother's property?

11 A I'd say average maybe 20 times a year.

12 Q You said sometimes as much as five times a  
13 month?

14 A Yes.

15 Q Let's talk a little bit about the amount of  
16 marijuana, which I think you alluded to earlier. How much --  
17 and, again, I would like to focus on that 2005 time period,  
18 to 2009 -- what was the typical load that you would pick up  
19 from the defendant's mother's property?

20 A It was over 80 pounds but they tried to keep  
21 it under a hundred pounds.

22 Q Why would they try and keep it under a hundred  
23 pounds?

24 A From what I was told, there was a certain  
25 guideline so if you did get stopped.

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1                   Q     At some point did that change? At any point  
2 did you start transporting more?

3                   A     Yes.

4                   Q     Okay.

5                   A     They went up to -- went from a car to a pickup  
6 truck so then we could haul more.

7                   Q     Once you made the change to the pickup truck,  
8 what was an average load that you would transport?

9                   A     I believe -- I don't know exactly myself,  
10 because I didn't know how many pounds -- but I believe it was  
11 at least 250 pounds.

12                  Q     Okay. Is that what you would take pretty much  
13 every single time or was that a big load?

14                  A     No, that started being a general load.

15                  Q     For all of these loads that you transported  
16 from 2005 to 2009, was there any instance where you picked up  
17 a load from somewhere other than defendant's mother's  
18 property?

19                  A     Yes.

20                  Q     Okay. About how many times did you pick up a  
21 load somewhere else?

22                  A     Three or four times.

23                  Q     So out of the 80 to a hundred times that you  
24 picked up a load, just three or four times you went somewhere  
25 else?

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1 A Yes.

2 Q Do you recall where you went?

3 A Yes, Adams Marina.

4 Q Where is Adams Marina located?

5 A Just right down the road where I had pointed  
6 on the map on the screen.

7 Q We can put up Government Exhibit 3.

8 A Right there.

9 Q And you picked up there about three or four  
10 times?

11 A Yes.

12 Q When you picked up from Adams Marina, was the  
13 defendant ever there?

14 A No.

15 Q Was someone else there?

16 A The people that worked there.

17 Q Let's talk about that a little bit. I don't  
18 want to assume.

19 So did Colin and Stefan deliver the load to  
20 Adams Marina?

21 A Yes.

22 Q By boat or by snowmobile?

23 A Yes, or Roger St. Onge.

24 Q Other than Colin or Stefan and you, was there  
25 anybody else at Adams Marina when that transaction took



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1 place?

2 A No.

3 Q You mentioned the people that worked there?

4 A There was a restaurant off to the side and  
5 there was people in the restaurant.

6 Q Okay. Ms. Lobdell, do you recognize the  
7 individual depicted in Government Exhibit 21?

8 A Yes, I do. That's "Alan" Forget.

9 Q How do you know Forget?

10 A I met him in Canada when I was bartending and  
11 then he moved to the United States and then I moved back to  
12 the states and met him again and we were friends and then we  
13 were approached together because he was working with Stefan  
14 and Colin, also, and had asked me if I wanted to also  
15 transport marijuana from Hiio's residence to his residence.

16 Q All right. So, at some point you became aware  
17 that Forget was working with Colin and Stefan?

18 A Yes.

19 Q But you knew him before that?

20 A Yes.

21 Q And you knew him socially?

22 A Yes.

23 Q Do you remember the approximate time frame in  
24 which you learned that Forget was also working with Colin and  
25 Stefan?

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1           A     That was around like 2006-2007.

2           Q     Okay.

3           A     Yeah.

4           Q     And how did you come to learn that Forget was  
5 working with Colin and Stefan?

6           A     I seen him at Hiio's place and then I'd also  
7 seen him at a residence of George King where they were also  
8 transporting marijuana to his house and using his house as a  
9 safe house.

10          Q     When you saw Forget at the defendant's  
11 mother's property, what was -- what was going on?

12          A     They were loading vehicles, you know, other  
13 people, like, were loading vehicles. He was having  
14 discussions with Hiio and Colin and Stefan. They were all  
15 talking.

16          Q     Forget was?

17          A     Yes.

18          Q     Do you know what they were talking about?

19          A     Not all the time, no, I did not.

20          Q     When the two of you -- Forget and you -- were  
21 at the defendant's mother's property, were you both picking  
22 up loads of marijuana to transport?

23          A     I was. He was setting up, lining up to have  
24 others. He didn't take it the times I was there. He went in  
25 front of me.

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1 Q Did he scout for you?

2 A Yes.

3 Q And you mentioned that sometimes you would  
4 also pick up loads at George King's residence?

5 A Yes.

6 Q Or did you say you transported loads?

7 A They transported them there, too.

8 Q Well, let me ask you: Did you ever pick up a  
9 load at George King's residence to transport?

10 A Yes.

11 Q You indicated that, I believe, it was Colin or  
12 Stefan asked you if you wanted to transport loads to Forget's  
13 residence or from Forget's residence?

14 A "Alan" had asked me to.

15 Q What did "Alan" ask you?

16 A If I wanted to make some extra money. He was  
17 going to give me \$500 to bring marijuana from Hiio's house to  
18 his place on the other side of Malone.

19 Q Was that in addition to the trips you were  
20 already making for Colin and Stefan?

21 A Yes.

22 Q How many times do you think you did that?

23 A I only did that a couple of times.

24 Q Why is that?

25 A I don't know because I was doing other --

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1 other runs and he had other people that were doing it.

2 Q Do you know who else he had doing it?

3 A I'm not sure of everybody.

4 Q We talked about this just a little bit  
5 already, but at some point were you caught transporting a  
6 load of marijuana by law enforcement?

7 A Yes, I was.

8 Q Do you remember when that was, the first time?

9 A In 2009.

10 Q Was it in May of 2009?

11 A Yes, it was.

12 Q Do you remember how much marijuana you were  
13 transporting that day?

14 A I don't know. All I know is that it was a  
15 pickup load and I believe I had six hockey bags.

16 Q Where did you pick up those six hockey bags?

17 A At Hiio's residence, his mother's.

18 Q Did you have a scout working that day?

19 A No.

20 Q Why not?

21 A I -- I had one when I went out of the  
22 reservation and after that I didn't.

23 Q Who scouted for you out of the reservation?

24 A Hiio did that morning.

25 Q Say that one more time.

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1 A Hiio did that morning.

2 Q And what happened after you got off the  
3 reservation?

4 A I got down -- made it to 87 and I came on the  
5 roadblock.

6 Q The checkpoint on I 87?

7 A (Witness nodding.)

8 Q Is that the one you were talking about earlier  
9 at North Hudson?

10 A Yes.

11 Q Sorry, you called it High Peaks?

12 A High Peaks.

13 Q This is a dark photograph, but can you look at  
14 Government Exhibit 7A and tell me if you can recognize that.

15 A Yes, that was my truck.

16 Q And was that the truck you were driving in  
17 May 2009 when you were stopped at the checkpoint?

18 A Yes, it was.

19 Q Do you recognize Government Exhibit 7B?

20 A Yes.

21 Q What is it?

22 A That's what was in the back end of my pickup  
23 truck.

24 Q Now, after law enforcement officers seized the  
25 truck and seized the marijuana, what happened to you?

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1 A I went home.

2 Q You were released?

3 A Yes.

4 Q You weren't charged with anything that day?

5 A No.

6 Q Were you supposed to be cooperating with law  
7 enforcement?

8 A Yes.

9 Q Had you agreed to cooperate with law  
10 enforcement?

11 A Yes.

12 Q Did you help law enforcement that day?

13 A Not on that day, no.

14 Q Is it fair to say that you did not fully  
15 cooperate?

16 A Yes, it is.

17 Q After you were caught in May of 2009, did you  
18 make any attempts to get paid for transporting that load?

19 A Yes.

20 Q Can you describe that for the jury?

21 A I was calling and texting people and asking  
22 for my pay.

23 Q Who did you call and text?

24 A I had text Roger St. Onge, Matt Forget, Colin,  
25 Stefan, Jacques, anybody number that I had so I could... And

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1 I also -- that day there, the day I left on the Friday, as  
2 soon as I got home, I called Hiio and asked if he had my pay  
3 and he said, yes, we can meet at the diner and I met him that  
4 Friday after I got stopped.

5 Q Was that pay for the load that was caught or  
6 for a previous load?

7 A Previous loads.

8 Q So did the defendant already have that money  
9 to pay you?

10 A Yes, he did.

11 Q How was that -- how was that already arranged?

12 A I was told that morning that by the time I got  
13 done with this job, that Hiio would have some money for me.

14 Q Who told you that?

15 A I talked to Hiio that morning and he said when  
16 I got back and just text him and we'd meet and he'd give me  
17 the money.

18 Q Was it your standard \$2,500 that you normally  
19 got paid?

20 A I think that day I ended up with 5,000 because  
21 there was a couple trips in there and there was still money  
22 that was out there.

23 Q You were owed money?

24 A Yes.

25 Q And that payment was not just for one prior

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1 trip but more than one?

2 A Yes.

3 Q The vehicle we were just looking at in  
4 Government Exhibit 7A, was that vehicle registered in your  
5 name?

6 A Yes, it was.

7 Q Do you recall who purchased that vehicle?

8 A Yes.

9 Q Who was that?

10 A Hiio.

11 Q Can you describe for the jury how you know  
12 that?

13 A Because the vehicle I was driving was acting  
14 up and it wasn't roadworthy and we were all down at Hiio's  
15 place talking, Colin, Stefan, myself and Hiio. And we were  
16 talking about they asked before if I would put a truck in my  
17 name and I said yes and Hiio says, well, I have a truck that  
18 I've already bought and she can put it in her name. And so  
19 we made an arrangement. I would meet Hiio in Massena at the  
20 dealership and put the vehicle in my name.

21 Q Do you remember the name of that dealership?

22 A Frenchie's.

23 Q Did you go to Frenchie's?

24 A Yes, I did.

25 Q What happened -- did the defendant go with



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1     you?

2                   A     We met at Frenchie's and we went in together  
3     and we went into an office and I can't -- I do not remember  
4     the gentleman's name, the salesman. But we walked in and  
5     they talked and he goes -- the salesman went, oh, he says, I  
6     see you found somebody for the truck and Hiio said yes. And  
7     then he finished and he handed him some money and he said now  
8     it's paid off and then Hiio said, now, I'd like the papers  
9     shredded because I don't want any paper trail. And the two  
10    of them walked over to the shredding machine and they put  
11    some papers through the machine, and then he says now  
12    everything's all right, you just have to put the plates and  
13    that and then he said yes. And he goes, well, thank you very  
14    much. He says any time you need a vehicle, you know, just  
15    let me know and I'll help you out any way I can. And then  
16    Hiio left and the gentleman finished doing some paperwork and  
17    I had a truck.

18                  Q     Did you take possession of the truck that day?

19                  A     Yes, I did.

20                  Q     You're pretty sure it was that day that you  
21    paid for it?

22                  A     Yes.

23                  Q     Now, were you caught again by law enforcement  
24    transporting another load of marijuana?

25                  A     Yes, I was.

JA-570

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Lobdell - Direct - Gardner

1 Q And when was that?

2 A That was in February two thousand --  
3 February 2011, I believe it was or March 2011.

4 Q February or March 2011?

5 A Yes.

6 Q After you were caught in May of 2009, did you  
7 continue to work for this organization?

8 A No.

9 Q Did you want to continue to work for the  
10 organization?

11 A I wanted to get out but I also wanted help.

12 Q What do you mean help?

13 A This -- I wanted to get out of the business  
14 but I -- it was hard at times because I would get scared but  
15 I also knew that I had said that I would try to help the  
16 government and I let my fears overtake and I got back in  
17 contact and I --

18 Q With who?

19 A Matt Forget.

20 Q And did you ask Matt Forget to get back into  
21 the organization, start working again?

22 A Yes, I did.

23 Q Now, since you were caught in 2009, was Matt  
24 Forget open to the idea of you working again?

25 A At first no.

JA-571

535

Lobdell - Direct - Gardner

1 Q And why is that?

2 A Because I believe everybody had believed that  
3 I had got busted.

4 Q Why wouldn't they have believed that you got  
5 busted. I didn't phrase that very well. You were caught  
6 redhanded, right?

7 A Yes.

8 Q Did people in the organization not know that  
9 you were caught redhanded?

10 A Yes, they did not know.

11 Q Why is that?

12 A Because I told them that I didn't get busted.

13 Q What did you tell them?

14 A The day that I got busted, they knew I was  
15 stopped by the police and I said no, everything was okay, and  
16 when -- that was on a Friday and on Monday when the load was  
17 taken down, my vehicle was busted with the marijuana in it,  
18 and I was on the side and they thought I took a bus back  
19 home.

20 Q You said when the marijuana in my truck was  
21 taken down, what did you mean by that?

22 A They -- I showed them -- and I took the load  
23 with the authorities to where it was going to be dropped off  
24 that day.

25 Q So a little bit earlier I asked you if you

Lobdell - Direct - Gardner

1 cooperated on the day that you stopped at the checkpoint?

2 A Yeah, I said no. I misunderstood because on  
3 the Friday that I got stopped, I did not help that day. We  
4 put it off until Monday. That was my mistake, I'm sorry.

5 Q No. I should have asked the question  
6 different. Why don't we talk about that a little bit.

7 After you were stopped at the checkpoint in  
8 2009 --

9 A Yes.

10 Q -- did you cooperate with law enforcement  
11 officers?

12 A Yes, I did.

13 Q Did you participate in what's called a  
14 controlled delivery?

15 A Yes, I did.

16 Q Just briefly -- I don't want to get into a  
17 whole lot of detail -- what did you do for law enforcement  
18 officers around that time?

19 A I told them where I was going to take this  
20 delivery and I rode down with them, like, they escorted me  
21 down. And then I told them where I was to meet the gentleman  
22 and how he was going to pick up my truck and go to his house  
23 to unload or wherever, I don't know exactly what house, I  
24 cannot assume that. He took my vehicle to go on the load and  
25 then they followed him and they busted him and it was around

Lobdell - Direct - Gardner

1 5, 5:30 in the afternoon and I sat right in the one spot  
2 waiting until they came back when they got all done at 11:30,  
3 12 o'clock at night.

4 Q And then you indicated you made up a story  
5 that you communicated back to the organization?

6 A Yes.

7 Q Okay. And who did you communicate that to?

8 A I sent a letter to Roger St. Onge. I gave him  
9 a paper stating that the truck was seized on that occasion  
10 not in my possession.

11 Q So, now, going back to 2011, you indicated  
12 that you had talked to Matt Forget about getting back into  
13 the organization; is that right?

14 A Yes.

15 Q And you indicated that he was suspicious of  
16 you; is that right?

17 A Yes.

18 Q At some point did Matt Forget agree to allow  
19 you to transport loads of marijuana?

20 A Yes, he did.

21 Q And approximately how many times did you  
22 transport a load that Matt Forget coordinated?

23 A Three times. The third time is when I got  
24 busted again.

25 Q In March of 2011?

JA-574

538

Lobdell - Direct - Gardner

1 A Yes.

2 Q I think you mentioned just a little while ago  
3 that Matt Forget toward the end would be on the boat with  
4 Colin or someone else; is that right?

5 A Yes.

6 Q Do you remember approximately when Matt Forget  
7 got involved in this organization?

8 A I don't remember the exact time frame now. I  
9 know it was towards the end. I mean, he -- he started  
10 earlier as just a scout.

11 Q Okay.

12 A He was a scout for me. But when he  
13 actually -- I don't remember exact time when he started  
14 bringing the marijuana up himself. I don't remember that for  
15 sure.

16 Q When you approached Matt Forget about getting  
17 back into the organization --

18 A Yeah.

19 Q -- did you have a sense of who Matt was  
20 working with?

21 A Yes, Colin and Stefan.

22 Q So you still believed Matt was working with  
23 Colin?

24 A Yes.

25 Q You said you picked up three loads; is that

Lobdell - Direct - Gardner

1 right?

2 A Yes, I did.

3 Q Where did you pick up those loads of  
4 marijuana?

5 A At Hiio's mother's place.

6 Q Even though Matt was coordinating these loads,  
7 it was still the same procedure?

8 A Yes, it was.

9 Q Did Matt Forget bring those loads down  
10 himself?

11 A Yes.

12 Q By boat or snowmobile?

13 A Yes.

14 Q When you went to pick up the load that you  
15 were caught with in March of 2011, was Matt Forget there?

16 A Yes, he was.

17 Q Did he have a scout for you?

18 A No. And I had asked for one and he said no.  
19 He says we can't get anybody because they can't leave the  
20 house and he looked up -- the lights were on over at Hiio's  
21 mother's house -- he said they have stuff up there that they  
22 can't leave alone.

23 Q So you went without a scout?

24 A Yes, I did.

25 Q And where were you stopped by law enforcement?

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Lobdell - Direct - Gardner

1 A On Route 37.

2 Q Ms. Lobdell, can you take a look at Government  
3 Exhibit 11A and tell me if you recognize that.

4 A Yes, that was the vehicle I was driving.

5 Q The night you were stopped in March of 2011?

6 A Yes.

7 Q It's not a great picture there, Ms. Lobdell,  
8 but looking at Government Exhibit 11B, do you recognize what  
9 we're looking at?

10 A Yes, they're duffel bags.

11 Q And are they the duffel bags of marijuana that  
12 you were transporting that night?

13 A Yes.

14 Q Here's a better picture, Ms. Lobdell. Can you  
15 take a look at Government Exhibit 11D and tell me if you  
16 recognize that photo.

17 A Yes.

18 Q And what is it?

19 A Those were the hockey bags with the, like,  
20 plastic melted on the zipper so you can't --

21 Q That we were talking about earlier?

22 A Yes.

23 MR. GARDNER: Your Honor, may I have one moment,  
24 please.

25 THE COURT: Yes.



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Lobdell - Direct - Gardner

1 (Discussion held off the record.)

2 MR. GARDNER: Your Honor, no additional questions  
3 at this time.

4 THE COURT: I think we're going to take a short  
5 break before you start your cross, give everybody a chance to  
6 move a little bit, give you a short break.

7 Please don't talk about the case and we'll have you  
8 back out here in five minutes.

9 (Jury excused, recess taken, 2:25 p.m.)

10 (Open court, 2:37 p.m.)

11 THE COURT: All set, ready to go?

12 MR. SACCO: Yes, your Honor.

13 MR. GARDNER: Yes, sir.

14 THE COURT: Okay. Let's bring the jury in, please.

15 (Jury present, 2:37 p.m.)

16 THE COURT: Okay. We have all the ladies and  
17 gentlemen of the jury.

18 And, Mr. Sacco, cross-examination, if you would  
19 like, sir.

20 MR. SACCO: Thank you, Judge.

21 CROSS-EXAMINATION BY MR. SACCO:

22 Q Good afternoon, ma'am.

23 A Good afternoon.

24 Q Now, you indicated on your direct examination  
25 that you started in this business in 1990; is that right?

Lobdell - Cross - Sacco

1 A Early 1990s, yes, it is.

2 Q Are you 47 now here today?

3 A Yes.

4 Q So that means how hold were you when you  
5 started -- I should start with that?

6 A In my early 20s, mid-20s.

7 Q And you grew up in the north country?

8 A Yes, sir.

9 Q Chateaugay?

10 A Yes.

11 Q And you indicated that at an early age you  
12 started having substance abuse problems, right?

13 A Yes, I did.

14 Q And you've had those problems from the time  
15 you were 10 years old until I believe June 25th, 2012?

16 A Yes, sir.

17 Q And you also indicated that you started doing  
18 cocaine, I believe, in your 20s?

19 A Yes, sir.

20 Q Is it fair to say you did -- you were doing  
21 cocaine from your 20s until June 25th, 2012?

22 A Yes.

23 Q Pretty much straight through?

24 A Yes, there was a couple years break, but, yes.

25 Q So that's a significant period of time, is

JA-579

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Lobdell - Cross - Sacco

1 that fair to say?

2 A Yes.

3 Q Now, you -- in 2006, all right, you were  
4 convicted of grand larceny and falsifying a business record,  
5 do you remember that?

6 A Yes, I do.

7 Q And you received 5 years of probation for  
8 that?

9 A Yes, I did.

10 Q And during that 5 years of probation, I mean,  
11 you had to report to a probation officer, right?

12 A Yes, I did.

13 Q Which would have been meant going and talking  
14 to them about what you were doing, what kind of job you had,  
15 correct?

16 A Yes.

17 Q Probably taking -- did you have to give  
18 drug -- samples?

19 A Yes, I did.

20 Q To make sure that you were clean and all that?

21 A Yes.

22 Q And they would be able to come to your house  
23 and look to see what you were doing, right?

24 A Yes.

25 Q And their job was to keep you on the straight

Lobdell - Cross - Sacco

1 and narrow, for lack of a better term, right?

2 A Yes.

3 Q During that whole five-year period you were  
4 transporting marijuana, right?

5 A Part of it, yes, I was.

6 Q So let's get into what happened, grand larceny  
7 third degree and falsifying a business record. Is this --  
8 what happened?

9 A I was the manager at a gas station food mart,  
10 and crying out for help. I did the books and I just  
11 blatantly made out the deposit slips, put one there, signed  
12 that I put it in the bank, which I did not, and that was --  
13 that was what I did.

14 Q So you stole cash from the business owner?

15 A Yes, I did.

16 Q And you didn't own the business, right, I  
17 assume?

18 A No, I did not.

19 Q And you were the manager at the time?

20 A Yes, I was.

21 Q And so the falsifying the business record was  
22 the phony deposit slip?

23 A I signed a deposit slip and sent it in and the  
24 slip that I signed at the store itself saying that I  
25 deposited it was the false one, yes, it was.

JA-581

545

Lobdell - Cross - Sacco

1 Q And how much cash was this?

2 A \$5,000.

3 Q And this was a convenient mart so that's a  
4 significant portion of their income, I assume?

5 A Yeah. It was a very good store, still  
6 running.

7 Q So you went on five years of probation for  
8 this offense, right?

9 A Yes.

10 Q So you were on probation from 2006 until 2011  
11 is five years?

12 A I was released early.

13 Q So when you say released early, were you  
14 released before you were arrested in 2009?

15 A No, I was not, right afterwards I was.

16 Q Right after you were arrested you got released  
17 from probation?

18 A Yes.

19 Q So did your probation officer become aware  
20 that you were just arrested by the police for smuggling 200  
21 pounds of marijuana?

22 A No.

23 Q And did you -- I mean, as your obligations as  
24 a probationer, did you report that to her?

25 A No, I did not report that to him.

Lobdell - Cross - Sacco

1 Q Did you report to him that you were using  
2 cocaine regularly during that period of time?

3 A At that period of time I was not using it  
4 regularly and I was in an outpatient treatment from 2006  
5 until 2007.

6 Q But during the same period of time you were --  
7 you testified that you were working with Mr. St. Onge and  
8 Mr. Colin Stewart and various others smuggling --

9 A Yes, we were --

10 Q -- drugs?

11 A -- doing some trips. Yes, I was.

12 Q Can I ask you, as a result of your cooperation  
13 with the law enforcement, is that why you were released early  
14 on probation?

15 A No. Prior to me getting arrested I had  
16 already put in the paperwork to be released early from  
17 probation.

18 Q And your arrest was never reported to any  
19 agency, right?

20 A No, sir.

21 Q All right. So -- and so you're here today --  
22 you got arrested again in 2011, right?

23 A Yes, sir.

24 Q And you entered into a cooperation agreement  
25 with the government, right?

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Lobdell - Cross - Sacco

1 A Yes, I did.

2 Q Before I get to that, let me ask you this: In  
3 2009, you were arrested. Was it drug enforcement agents or  
4 who worked with you?

5 A I believe it was the drug enforcement agent.

6 Q And you actually took a step and you went down  
7 to the Capitol region, Albany area and you made a controlled  
8 delivery for them, right?

9 A It was in New York City.

10 Q New York City, okay. And you obviously sat  
11 down with them, right, you were interviewed by them?

12 A Yes.

13 Q You had to answer questions about, you know,  
14 what kind of drug activity you were involved in, right?

15 A Yes.

16 Q Did you forget to tell them all the things  
17 you've told this jury in the courtroom today?

18 A No, sir.

19 Q You told them about the -- about this  
20 marijuana ring and all these issues that were going on in  
21 2009?

22 A Yes, I did.

23 Q So, in 2009, how long did you work with the  
24 DEA?

25 A I was working with them constantly trying to

Lobdell - Cross - Sacco

1 report when I could. If they needed any questions -- had  
2 questions for me, they would call. I would answer them.

3 Q And how long did that go on for?

4 A Until I came to jail.

5 Q So when you were working for them, were you  
6 also working for the organization?

7 A Yes, I did.

8 Q Did you tell them about that?

9 A No, I did not.

10 Q So you were working for both law enforcement  
11 and this Mr. St. Onge, Mr. Stewart and so on, right?

12 A Yes.

13 Q At the same time?

14 A Yes, sir.

15 Q And after you got arrested in 2011, the  
16 government signed you up as a cooperator, right?

17 A Yes, sir.

18 Q And in exchange for that cooperation, they  
19 were going to tell the Court that you should get a lesser  
20 sentence, right?

21 A Yes, sir.

22 Q And you made an agreement with them, didn't  
23 you?

24 A Yes, I did, sir.

25 Q Now, at the time that they offered you that



Lobdell - Cross - Sacco

1 agreement, do they know you were working both for yourself  
2 and for the DEA at the same time, were they aware of that at  
3 this point?

4 A Yes, I was up front and I told them when I got  
5 stopped.

6 Q Oh, you told the police officer that stopped  
7 you that you were working for the DEA?

8 A Oh, no.

9 Q Well, explain it then. What did you do?

10 A When I got stopped and I was arrested again,  
11 then when I got questioned afterwards, it was the same  
12 gentlemen before.

13 Q So he knew who you were?

14 A Yes.

15 Q So you were given --

16 THE COURT: Mr. Sacco, I don't want to interrupt  
17 but when you say the same gentlemen as before, you mean the  
18 same DEA agent that you had?

19 THE WITNESS: I'm not sure myself exactly if it was  
20 DEA or if it was from the border patrol but I recognized some  
21 of the same gentlemen that were questioning me.

22 Q So in any event --

23 MR. SACCO: Judge, do you want me just to follow up  
24 on that?

25 THE COURT: Please, I just want that to be clear

Lobdell - Cross - Sacco

1 what she was talking about.

2 Q So in 2009 you were arrested but you were  
3 never --

4 A Yes.

5 Q -- you were never charged, right?

6 A Correct, sir.

7 Q In 2011 you were also arrested and this time  
8 you were charged, right?

9 A Yes, sir.

10 Q Both of those times it was the same  
11 individuals that you were dealing with?

12 A Yes.

13 MR. SACCO: Is that good enough?

14 THE COURT: Thank you.

15 Q So, now, you said something on your direct  
16 examination that, in exchange for your testimony, you hoped  
17 not to go to prison. What did you mean by that?

18 A I was trying to avoid going to prison. I was  
19 hoping for house arrest, anything but going to prison.

20 Q When would -- now when you say that, obviously  
21 you're in prison now, right?

22 A Yes, sir.

23 Q So, when were you hoping not to go to prison,  
24 I mean, when you started your cooperation?

25 A Yes, sir.

Lobdell - Cross - Sacco

1           Q     And, in fact, after you were arrested in 2011,  
2 you were released, right, the Court released you?

3           A     Yes, sir.

4           Q     And you had some problems during your release,  
5 is that fair to say?

6           A     Yes, I did.

7           Q     And those problems were you were trying to  
8 dilute your urine samples --

9           A     Yes.

10          Q     -- from your probation officer? And I think  
11 you testified on direct that you drank a 64 ounce bottle of  
12 Gatorade®, right?

13          A     Yes, sir.

14          Q     Why did you do that?

15          A     Because when I originally went in, I had been  
16 clean and then I went off the wagon and I tested dirty and  
17 then I was good for a couple weeks and then I fell off again  
18 and I did a diluted sample. Somebody explained to me how I  
19 could do it, it would come back diluted. And I did it one  
20 time and afterward I did it the same way because I figured if  
21 I did it the same way, they wouldn't tell the difference.  
22 And then when I used in June, I came clean and just said I  
23 used.

24          Q     So --

25          A     Because I needed help.

Lobdell - Cross - Sacco

1                   Q     Someone gave you this idea how you could  
2 circumvent the testing system, right?

3                   A     Yes, sir.

4                   Q     And you in your 40s decided you would do that,  
5 right?

6                   A     Yes, sir.

7                   Q     No one made you do it, right, you did it on  
8 your own?

9                   A     Yes, sir, I made my choices.

10                  Q     So on January 10th, 2013 you were given a  
11 sentence of 33 months?

12                  A     Yes, sir.

13                  Q     And I think some post-release supervision  
14 after that, right?

15                  A     Yes, sir.

16                  Q     And you were facing, when you started, a  
17 minimum of five years --

18                  A     Yes, sir.

19                  Q     -- right? Which is 60 months and a maximum, I  
20 believe, of 40 years, right?

21                  A     Yes, sir.

22                  Q     Now, if we could, I want to just go through  
23 some of these events and try and pinpoint some time periods,  
24 is that okay?

25                  A     Yes, sir.

Lobdell - Cross - Sacco

1 Q Now you said you started working in the early  
2 '90s and you did a few runs, right?

3 A Scouting, yes.

4 Q That was -- at this point that was over 20  
5 years ago, right?

6 A Yes, sir.

7 Q And during the bulk of that period of time you  
8 were using cocaine regularly, right?

9 A Yes, on the weekends.

10 Q And, so, for instance, you said on your direct  
11 that you went to I think the Kings dock, to Adams dock, is  
12 that true?

13 A Adams Marina.

14 Q Adams Marina?

15 A Yes, sir.

16 Q Did you say something about George King, also?

17 A Yes, that was in 2000, like after 2005.

18 Q After 2005?

19 A Yes.

20 Q Any time you can get closer than that, just  
21 after 2005?

22 A To George King?

23 Q Yeah.

24 A It was all in that time, from 2005-2006.

25 Q Well, how many times did you go to George

Lobdell - Cross - Sacco

1 King's?

2 A I went to George King's different times  
3 because he was a friend, also.

4 Q And George King is a marijuana smuggler?

5 A No, sir, he was asked to use his house as a  
6 safe house.

7 Q All right. So how many times did you go to  
8 George King's and when did you go to George King's?

9 A Let's see, well, 2007-2008, I was there quite  
10 often.

11 Q Okay.

12 A I can't say.

13 Q When you say --

14 A At least three, four times a month I would be  
15 over there.

16 Q Okay. And 2007 and 2008, is that --

17 A Yes, sir.

18 Q So how many times a month?

19 A At least four times.

20 Q So four -- four times 12 months is 48 times;  
21 is that fair?

22 A Yes.

23 Q And then two years, so that's 99 times at  
24 George King's, is that fair to say?

25 A Yes.

Lobdell - Cross - Sacco

1 Q Over a two-year period?

2 A Yes.

3 Q And that's in 2007 and 2008?

4 A Yes.

5 Q And that's during this is -- this is at least  
6 part of that time you were on probation, right?

7 A Yes, sir.

8 Q And what about the other, the marina, were you  
9 friends with those folks, too, over there?

10 A I knew them from the bar.

11 Q And how many times did you go and smuggle  
12 drugs from that marina?

13 A I was only there maybe two, three times.

14 Q When was that?

15 A I'm -- I'm trying to remember the exact year  
16 on it. And I'm -- I can't quite recall the exact year on  
17 that.

18 Q So you know you were there, you just don't  
19 know when you were there, is that fair?

20 A Yes, sir.

21 Q Now we've heard discussion about Alain Forget?

22 A Yes, sir.

23 Q Am I pronouncing that right, Alain Forget?

24 A Yeah, Alain Forget.

25 Q And do you know him?

Lobdell - Cross - Sacco

1 A Yes, sir.

2 Q And how long have you known him?

3 A Since the early '90s.

4 Q So you've known him for a very long time?

5 A Yes.

6 Q Twenty something years, is that fair to say?

7 A Yes.

8 Q And your relationship with him, was it outside  
9 of this drug or marijuana smuggling or transporting or is it  
10 just limited to the marijuana transporting?

11 A Both.

12 Q The relationship outside of the marijuana  
13 transporting, give me an idea -- give the jury a sense of  
14 what that relationship was like.

15 A We were friends -- it started back in the  
16 '90s. We were friends. We might have a couple drinks, play  
17 some pool. Then in -- well, we were working together and  
18 then I'd say in 2008, I slept with him once.

19 Q Okay. So you had a romantic relationship in  
20 2008?

21 A Yes. One-time fling.

22 Q So, Mr. -- is his son Matt Forget, are they  
23 related?

24 A Yes.

25 Q That's his son, right?



Lobdell - Cross - Sacco

1 A Yes, it is.

2 Q And you worked with Matt, too, you've  
3 testified?

4 A Yes, I did.

5 Q And Mr. St. Onge, we've heard that name in  
6 here, right?

7 A Yes, sir.

8 Q And Mr. Marchand?

9 A Yes, sir.

10 Q And the Trepaniers -- there are two  
11 Trepaniers, correct?

12 A Yes, sir.

13 Q And you worked for them also, right, at --

14 A Yes.

15 Q -- at various points?

16 A Yes, sir.

17 Q So, from your memory, how many different  
18 organizations have you worked for or did you work for?

19 A For myself they were all working together so  
20 it was one organization.

21 Q What about Mr. Alain Forget, didn't he do  
22 things on his own, also?

23 A Yes, through them. They were all there at the  
24 same time, though.

25 Q But he also had his own operation, right?

Lobdell - Cross - Sacco

1 A Yes.

2 Q And you worked for him, also?

3 A One time, yes.

4 Q And he had his own operation. Where did you  
5 take the marijuana that time?

6 A I went to Florida.

7 Q And did he go with you?

8 A Yes, he did.

9 Q So you and Mr. Forget had your own thing and  
10 you went down to Florida, right?

11 A Yes.

12 Q And for that, Alain Forget paid you how much?

13 A \$5,000.

14 Q And you drove for him, is that what you did?

15 A Yes, I did.

16 Q Now, when you talked to law enforcement during  
17 2009 and you stated that, you told them all about these  
18 activities that had been going on, right?

19 A Yes, sir.

20 Q Did they ever send you up to do any kind of  
21 controlled purchase?

22 A No, sir.

23 Q They decided they didn't want to do that at  
24 that time?

25 A I never purchased anything. I was just called

Lobdell - Cross - Sacco

1 and told to pick up and drop off, so I didn't --

2 Q All of these trips that you were making, were  
3 you calling them and telling them I'm on my way down, you  
4 know, bust me?

5 A I'm sorry, I don't understand.

6 Q In 2009 you got arrested, right?

7 A Yes, sir.

8 Q And you were working with law enforcement,  
9 right?

10 A After that, yes.

11 Q And you made a number of trips after 2009,  
12 didn't you?

13 A I did two trips by myself and a third trip I  
14 was busted.

15 Q On the first two trips by yourself, though,  
16 did you call them and say I'm on my way with 200 pounds of  
17 marijuana?

18 A No, sir.

19 Q But you were required to, weren't you?

20 A Yes, sir.

21 Q And you chose not to, right?

22 A Yes, I did.

23 Q Because you wanted the money, right?

24 A No, sir.

25 Q You were getting paid for it, weren't you?

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1 A Yes, sir.

2 Q And how much were you going to get paid?

3 A 2,500.

4 Q So those two trips were worth \$5,000 to you?

5 A Yes, sir.

6 Q And so you had a choice and call law  
7 enforcement and get \$0 or take the 5,000?

8 A Yes, sir.

9 Q And you chose the 5,000?

10 A Yes, sir.

11 Q Because that was in your best interest?

12 A My safety was my best interest.

13 Q You testified about a number of times that you  
14 went to my client's -- my client's mother's residence in this  
15 small canal that we've been talking about, do you recall  
16 that?

17 A Yes, sir.

18 Q Now, you've also testified that you were at  
19 another dock down the St. Lawrence a number of times, right,  
20 George King's?

21 A George King's was not a dock. That was a  
22 house in Malone.

23 Q I'm sorry, well, at George King's residence,  
24 right?

25 A Yes, sir.

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1                   Q     You used to go to "Alan" Forget's residence,  
2 also, right?

3                   A     Yes, sir.

4                   Q     Well, with respect to my client, you indicated  
5 that he paid you, right?

6                   A     Yes, he did, sir.

7                   Q     You also indicated that you were paid  
8 sometimes when money would come back?

9                   A     Yes, sir.

10                  Q     And that you would cut the money open, right?

11                  A     They did, sir, yes.

12                  Q     Right in front of you?

13                  A     Yes, sir.

14                  Q     Did they use a knife or just like a straight  
15 edge or how would they cut it open?

16                  A     They usually had a knife or just rip it open  
17 (indicating).

18                  Q     And he would, what, just take some hundred  
19 dollars bills out and pay you directly right there?

20                  A     Yes, sir. They would take a stack and count  
21 out and hand it to me.

22                  Q     Was this right before it was put on the boat  
23 to go north?

24                  A     Yes, sir.

25                  Q     Now you testified in the Grand Jury on May --

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1     sorry, April 18th, 2012, do you recall going to the Grand  
2     Jury?

3             A     Yes, sir.

4             Q     Do you recall raising your right hand and  
5     going under oath?

6             A     Yes, sir.

7             Q     And you swore to tell the truth, right?

8             A     Yes, sir.

9             Q     Do you recall -- this is Page 30, Line 7,  
10    through Line 10. Do you recall being asked this question and  
11    giving this answer?

12                    Question, "When you brought back money, did  
13    they ever pay you right out of the money that you brought  
14    back or was it always separate?"

15                    Answer, "It was always separate, and I always  
16    wondered why."

17                    Do you recall being asked that question and  
18    giving that answer?

19             A     No, I do not, sir.

20             Q     Do you know why you weren't charged in 2009?

21             A     No, I do not, sir.

22             Q     With respect to my client, you said that he  
23    paid you directly, right?

24             A     Yes, he did.

25             Q     Can you tell me a date and a time or a date,

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1 even?

2           A     I was arrested -- I was stopped on May 9th,  
3 2009. That was a Friday. I returned back to my house around  
4 6:00 and I believe it was around 7 or so that evening that I  
5 met Hiio in the corner of the little restaurant diner on the  
6 corner of 122 and 37. We met in the corner -- I went back  
7 like this. He pulled in like that. We were face to face and  
8 he handed me the money and I said, well, I said, yes, I was  
9 stopped today. They looked at the truck and said, oh, we're  
10 looking for a green truck, it's not yours and I was released.

11           Q     Now, did he call you or text you, how did he  
12 contact you?

13           A     I text him and he text back and told me what  
14 time to meet him.

15           Q     At this point you had just, I mean, hours  
16 earlier, made your agreement with law enforcement to  
17 cooperate with them, right?

18           A     Yes, sir.

19           Q     Did you call up the investigating agent and  
20 show him this text on your phone or ask him to meet you  
21 there, you were ready to help them?

22           A     Yes, sir.

23           Q     You called him up and told him that you  
24 were --

25           A     No, sir.

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1 Q But you just left him hours earlier, right?

2 A Yes, sir.

3 Q Do you still have these text messages or any?

4 A No, sir, I turned the phone over.

5 Q To who?

6 A The -- on the Monday when they did the  
7 controlled delivery, I turned the phone to them, whomever it  
8 was in that.

9 Q Did they give you any kind of a receipt for it  
10 or anything?

11 A No, sir.

12 Q Just handed him the phone and that was it?

13 A Yes, sir.

14 Q So there's a date and time that you can tell  
15 me and you were just -- did you have the marijuana in the  
16 back of your truck at that point when you met Mr. Peters?

17 A No, sir.

18 Q Where was it?

19 A They had it.

20 Q What did --

21 A It was --

22 Q What did you tell the organization, then,  
23 where was the marijuana?

24 A I told the organization that I had it safe.

25 Q Just you didn't tell them where it was,